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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

DENNIS JUNG, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

LG ELECTRONICS USA, INC.,

Defendant.

No. \_\_\_\_\_

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

1. Plaintiff Dennis Jung (“Plaintiff”), by and through his undersigned attorneys, brings this proposed class action based on personal knowledge as to himself and his activities, and on information and belief as to all other matters, against defendant, LG Electronics USA, Inc. (“LG” or “Defendant”), and alleges as follows.

**NATURE OF THE ACTION**

2. Plaintiff brings this action on behalf of himself and all other persons who have purchased during the Class Period (defined below) at least one of the Class Refrigerators (defined below). These refrigerators were manufactured, distributed and/or sold by Defendant

with one or both (depending on model) of two design defects. The first, the “Fan Defect,” causes refrigerators’ fans to malfunction, and thus causes the refrigerators to fail in their essential function of keeping food at appropriate temperatures. The second, the “Ice Maker Defect” (collectively, with the Fan Defect, the “Defects”), causes the in-door ice makers to become jammed and stop dispensing ice. The Class Refrigerators experience operational problems due to these Defects well in advance of the end of their expected duration of operation.

3. The Fan Defect causes refrigerator fans to fail, typically in conjunction with a build-up of ice. The ice build-up causes fan motors to stop spinning the fans, resulting in a loss of cold air circulating throughout the refrigerator. When cold air does not circulate, food is not cooled and spoils. On information and belief, the Fan Defect occurs in LG French Door, bottom freezer models including those with the following model numbers: LFXC24726S,<sup>1</sup> LFXS30726S, LFX32945ST, LFXS32766S, LFXS30766S, and LFX28968ST. Collectively, all models with the Fan Defect are the “Fan Defect Class Refrigerators” and purchasers of these models are the “Fan Defect Class.”

4. The Ice Maker Defect occurs when ice clogs the ice maker/dispenser that is built into the doors of each Refrigerator. The clog is often as a result of ice melting and refreezing into a large block, causing the ice maker to cease dispensing ice. On information and belief, the Ice Maker Defect occurs in LG Refrigerators including the following models: LFXC24726S, LFXS30726S, LFX32945ST, LFXS32766S, LFX28968ST, LFX21976ST, LFX25974ST, and LFXS30766S.<sup>2</sup> Collectively, all models with the Ice Maker Defect are called the “Ice Maker

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<sup>1</sup> Each model number referenced in this pleading includes all refrigerators in that model series. On information and belief, later versions of a model are denoted by adding digits or letters to the end of the model number. Thus, for example, the reference to LFXC24726S herein includes refrigerators with model numbers including LFXC24726S00, LFXC24726S01, and LFXC24726S02.

<sup>2</sup> This set includes all of the Fan Defect Class Refrigerators and two additional models.

Defect Class Refrigerators,” and purchasers of these models are the “Ice Maker Defect Class.” (Cumulatively, the Fan Defect Class Refrigerators and the Ice Maker Defect Class Refrigerators are the “Refrigerators,”<sup>3</sup> and members of all classes are, at times, referenced herein as the “Class.”)

5. Many consumers have experienced repeated occurrences of problems relating to each of the Defects, even after repair. No Class member can rely on a “repair” actually having remedied the problem with his or her Class Refrigerator for a reasonable period going forward.

6. According to the National Association of Home Builders/Bank of America Home Equity Study of Life Expectancy of Home Components, reproduced in relevant part on the website of the magazine, Consumer Reports, the expected life of a refrigerator is 13 years.<sup>4</sup> While a product might need repair at some point during its expected life, it is unfair and unconscionable for a manufacturer to sell a product that it knows suffers from multiple defects that make it likely to malfunction early in the expected life period. The Refrigerators that Defendant sold to members of the Class are prone to premature failure because of the Defects, with the first failure often occurring within less than two years of purchase.

7. Throughout the Class Period, Defendant has been well aware of both the Fan Defect and the Ice Maker Defect. For more than six years, Defendant has received numerous complaints from customers experiencing each of the Defects, both in the Class Refrigerators, and, earlier, in previous models that, on information and belief, were identical in relevant part to the Class models. In addition, those complaints necessitated LG’s communications with repair

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<sup>3</sup> Plaintiff reserves the right to amend the lists of Fan Defect Class Refrigerators and Ice Maker Defect Class Refrigerators upon discovery.

<sup>4</sup> <http://www.consumerreports.org/cro/news/2009/03/by-the-numbers-how-long-will-your-appliances-last-it-depends/index.htm>. (All webpages cited herein viewed May 17-18, 2017.)

technicians and service representatives about the Defects, further evidencing LG's awareness of the problems.

8. Despite its knowledge, Defendant omitted reference of the Defects in its sales materials and specification sheets for the Class Refrigerators. It concealed material facts about each of the Defects from the consuming public at all relevant times.

9. In addition, Defendant overtly misrepresented the quality of the Class Refrigerators. First, despite its knowledge of the Fan Defect, Defendant uniformly marketed the Refrigerators as better than competitors' models at keeping food at appropriate temperatures. Defendant promoted the Class Refrigerators by stating that they would "maintain superior conditions" and "keep food fresher longer," due in part to their "dual evaporator" systems which, according to Defendant's marketing, would "quickly react to help maintain optimal conditions and keep food at its peak."<sup>5</sup> This representation was false because the Refrigerators' fans were prone to failures, thus preventing the Refrigerators from "maintaining superior conditions" or "keeping food fresher longer," much less "quickly react[ing] to maintain optimal conditions and keep[ing] food at its peak."<sup>6</sup>

10. Despite Defendant's knowledge of the Ice Maker Defect, Defendant represented that the Refrigerators come with: "Ice Dispensers" or "Ice and Water Dispensers" and that they would make specified amounts of ice daily (for example, for the model purchased by Plaintiff: "Daily Ice Production: 4.5 lbs/5.0; Ice Storage Capacity: 3 lbs + 2.5 lbs.")<sup>7</sup> These

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<sup>5</sup> See, e.g., <http://www.lg.com/us/refrigerators/lg-LFXC24726S-french-3-door-refrigerator> (Features Tab). Substantially similar statements are present on LG's webpages for each of the Fan Defect Class Refrigerators, and LG provides this information to the vendors that sell its refrigerators and many of them replicate it in significant part on their websites.

<sup>6</sup> *Id.*

<sup>7</sup> See, e.g., <http://www.lg.com/us/refrigerators/lg-LFXC24726S-french-3-door-refrigerator> (Specifications Tab). Substantially similar statements are present on LG's webpages for each of the Ice Maker Defect

representations were false because the ice makers were manufactured with a defect that made them prone to clogging.

11. It is misleading to represent that a refrigerator has an “Ice & Water Dispenser” without also disclosing that the dispenser is likely to become clogged after which it will only dispense ice if one routinely defrosts its contents or breaks the ice apart with a sharp implement and manually removes the clumps. Further, it is misleading to state that a certain amount of ice is produced daily because once the ice clumps due to the Defect, the ice maker stops producing ice until after the defrosting or manual removal process.

12. Defendant has taken no meaningful steps to protect its customers from purchasing defective Refrigerators, to warn consumers about the Defects prior to sale, to change the design and/or manufacturing process to permanently remedy either of the Defects, or devise a permanent repair for either Defect.

13. Due to the undisclosed Defects, Plaintiff and other class members purchased Refrigerators that they would not otherwise have purchased, and/or paid more for those refrigerators than they would otherwise have paid. Consequently, Plaintiff and the Class have been significantly harmed by Defendant’s wrongdoing.

14. Plaintiff seeks, on behalf of himself and the proposed Class, actual damages, treble damages available under statute, restitution, disgorgement, injunctive remedy, attorneys’ fees, costs, and any and all other available relief.

#### **JURISDICTION AND VENUE**

15. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332(d)(2) because the aggregate claims of Plaintiff and the proposed Class members exceed \$5,000,000, exclusive

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Class Refrigerators, and LG provides this information to the vendors that sell its refrigerators and many of them replicate it in significant part on their websites.

of interest and costs, and there is diversity of citizenship between at least one member of the proposed Class and Defendant.

16. Additionally, pursuant to 28 U.S.C. § 1331, this Court has jurisdiction over Plaintiff's claims for violations of the Magnuson-Moss Warranty Act (15 U.S.C. § 2301, *et seq.*). This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a).

17. This Court has personal jurisdiction over Defendant because Defendant's executive office is in New Jersey and Defendant has purposefully availed itself of the privilege of conducting business in the State of New Jersey.

18. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because many of the acts and transactions giving rise to this action occurred in this district and because Defendant:

- a. has intentionally availed itself of the laws and markets within this district through the promotion, marketing, distribution and sale of its products in this district;
- b. does substantial business in this district; and
- c. is subject to personal jurisdiction in this district.

### **PARTIES**

#### ***Plaintiff***

19. Plaintiff is an individual residing in Ridgewood, New Jersey and thus is a citizen of New Jersey. During the relevant period, Plaintiff purchased one of Defendant's defective Refrigerators, and as a result suffered injury in fact and lost money.

20. On or about August 10, 2015, Plaintiff purchased an LG French Door, three door Refrigerator, Model No. LFXC24726S, from Best Buy for \$2599.99. Plaintiff was looking for a

refrigerator that would reliably keep his food fresh and cool. He also thought the slim ice dispenser in the door would be useful.

21. Plaintiff chose his refrigerator after reviewing the information about the Refrigerator's features that Defendant had posted on its website, including the Refrigerator's purported ability to "maintain superior conditions" and "keep food fresher longer." He had also read about Defendant's "Peace of Mind" guaranty offered for the Refrigerator's linear compressor because, as Defendant stated, "[w]hen you buy a refrigerator, you don't want to worry that it won't last."<sup>8</sup> In addition, before his purchase Plaintiff reviewed the descriptions about the Refrigerator's features on the website of Costco, a vendor of the Class Refrigerators, and viewed the Refrigerator's specification sheet on the website of Best Buy, the store where he ultimately made his purchase. The information on vendors' websites replicates significant information from Defendant's own website, and, on information and belief, is provided by Defendant.

22. Approximately 18 months after Plaintiff purchased his Class Refrigerator, due to the Fan Defect, Plaintiff's refrigerator fan stopped working and the refrigerator stopped keeping his fresh food cool. Plaintiff has lost approximately \$750 in food spoilage due to the Fan Defect. In addition, Plaintiff and his wife devoted approximately six days of lost work time waiting for a service technician to address and fix the Fan Defect. As a consequence of the Fan Defect, the Refrigerator that Plaintiff received is substantially less than what he bargained and paid for. If he had known of the trouble the Fan Defect would cause him, he would not have purchased his Class Refrigerator or would have paid less for it.

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<sup>8</sup> <http://www.lg.com/us/refrigerators/lg-LFXC24726S-french-3-door-refrigerator> (Features Tab.)

23. In addition, on multiple occasions, the ice maker in Plaintiff's Refrigerator has frozen over. Once iced over, the ice maker does not distribute ice cubes or ice chips until the unit is defrosted and/or the ice is manually broken up and removed. Plaintiff would not have purchased the Refrigerator, or would not have paid as much for it as he did, if he had been warned that the icemaker would frequently be unusable.

24. Plaintiff has experienced ascertainable and substantive losses as a result of each of these Defects. Neither he nor other members of the proposed Class would have suffered such loss but for Defendant's wrongdoing.

***Defendant***

25. Defendant LG Electronics U.S.A., Inc. is a Delaware corporation that sells home appliances, mobile communications devices and other electronics in the United States. LG's primary corporate offices are located at 1000 Sylvan Ave, Englewood Cliffs, NJ, 07632. Defendant maintains a website at <http://www.LG.com/us>. Defendant markets, distributes and sells the Refrigerators throughout the United States. On information and belief, all significant decisions concerning the design, marketing and sale of the Refrigerators at issue were made at Defendant's New Jersey headquarters.

**FACTUAL ALLEGATIONS**

26. Defendant is in the business of designing, manufacturing, distributing and selling nationwide appliances and electronics, including high end refrigerators. Consumers can purchase the Refrigerators through large chains like Home Depot, Sears and Best Buy, through smaller local appliance stores, and from numerous websites. Although the Refrigerators cannot be purchased directly from LG's website, that website provides links to multiple retailers where they may be purchased.



27. Defendant sells several lines of refrigerators, including the French door, bottom freezer Refrigerators with ice makers at issue. The Manufacturer's Recommended Sales Prices ("MRSP") for the Class Refrigerators are as follows: LFXS32766S (\$3899.99); LFXS30766S (\$3799.99); and LFXC24726S and LFXS30726S (\$3399.99); LFX28968ST and LFX21976ST (\$2599.99), LFX25974ST (\$2199.99);<sup>9</sup> LFX32945ST (model is no longer offered, MRSP was previously \$3,699.99). Typically, over time, after a new model is introduced to the market, its sales prices are lowered away from the MRSP. Thus older models will be less expensive than the newest models on the market. The current selling prices as of the filing of this Complaint for available Class Refrigerator models at Best Buy, Home Depot, and Sears range from \$1597.50 to \$3,509.99.

28. Each of these Refrigerators is sold with one or more significant Defects that makes it worth substantially less than the prices that consumers paid. Defendant conceals these Defects and misrepresents the quality of these products.

### ***The Fan Defect***

29. The Fan Defect Class Refrigerators are all manufactured with a uniform Defect that gives them a propensity to fail in their essential function. The fans within these models first make excessive noise, often sounding like a ticking, vibrating or grinding. The fans become clogged with ice. Either before or after the ice build up, the fans cease to turn. Finally, as a result, the fans stop distributing cool air throughout the Refrigerator.

30. The Fan Defect renders the Refrigerators useless because they become incapable of maintaining appropriate temperatures in the food compartments, even when they are used exactly in the manner directed by Defendant. According to the National Association of Home

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<sup>9</sup> LG is currently offering a rebate of "up to \$400" for December 2016 – May 2017 on each of the foregoing models.

Builders/Bank of America Home Equity Study of Life Expectancy of Home Components, reproduced in relevant part on the Consumer Reports website, the expected life of a refrigerator is 13 years.<sup>10</sup> While products may be expected to need repair during before they are replaced, it is unfair for a manufacturer to sell them with a defect it knows makes them likely to break early in their expected life period. However, due to the Fan Defect, Defendant's Refrigerators frequently fail in their primary function of maintaining food at appropriate temperatures with the first failure occurring within two years of purchase.

### ***The Ice Maker Defect***

31. The Ice Maker Class Defect Refrigerators all suffer from a uniform defect that makes their ice makers prone to failure well in advance of the end of the expected useful life of the Refrigerators. The defect causes the ice makers to clog or jam up, frequently as a result of the ice partially melting and then refreezing into large blocks that cannot pass through the dispenser chute. This renders the ice makers unable to dispense ice. To get the Ice Makers to start working again, consumers must either defrost their ice makers or break up and manually remove clumps of ice. Once they have done so, it is not long before the ice clumps anew and the ice makers become unusable again.

32. Consumers pay a significant premium for Refrigerators with ice makers in their doors. They do so expecting that this feature will work and provide them with useful functionality. The Ice Maker Class Defect Refrigerators do not do so. With respect to the ice makers in its Refrigerators, Defendant failed in its duty to properly design and manufacture its products. It failed to ensure that the Refrigerators worked properly before they left Defendant's

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<sup>10</sup> <http://www.consumerreports.org/cro/news/2009/03/by-the-numbers-how-long-will-your-appliances-last-it-depends/index.htm> (visited March 3, 2017).

hands. It also failed to ensure that its marketing and disclosures reflected the true nature of its Refrigerators.

***Defendant Knew of the Fan and Ice Maker Defects  
or Was Reckless in Not Knowing of Them at All Relevant Times***

33. Defendant has, at all relevant times, been well aware of each of the Defects or reckless in not knowing of them. Defendant's knowledge or recklessness in not knowing of the Defects is evidenced by a number of facts.

34. First, as shown below, countless consumers have posted about each of the Defects on a host of consumer and retailer websites. Some of the consumers even reported these Defects on Defendant's own webpage.

35. In most of these postings, the consumers indicate that they personally contacted Defendant by phone to seek assistance as a result of one or both of the Defects. Defendant cannot have been ignorant of these Defects in the face of this flood of complaints.

36. Moreover, Defendant generates claim numbers for problems that customers report to it so that it may track such claims. This is evidenced by Plaintiff's own experience, as he was assigned a claim number, which was tracked each time he called back to follow up.

37. Upon information and belief, Defendant maintains a database for accessing such information. Defendant thus has extensive evidence about the Defects.

38. In addition, as set forth herein, Defendant regularly spoke with and advised distributors and/or repair personnel of the Defects. On information and belief, it was necessary for LG-authorized repair personnel who worked on the defective Refrigerators to report the Defects to Defendant so that they could obtain parts and instructions.

39. It would not be credible for Defendant to deny knowledge of either of the Defects.

***Defendant's Knowledge of the Defects before the Class Periods***

40. Notably, Defendants were aware of both of the Defects in models substantially similar to those at issue – French door models with freezers on the bottom and ice makers in the doors – since before the Class Period began.

***Defendant's Knowledge of the Fan Defect before the Class Period Began***

41. With respect to the Fan Defect, Defendant's knowledge is evidenced by multiple facts. First, in 2008, LG Canada issued a service bulletin about ice buildup blocking fans in earlier LG bottom freezer refrigerators. On information and belief, such service bulletins are only made available to licensed service technicians and not made widely available to consumers. The first page of the bulletin, reproduced below, described the "Symptoms (key points)" of the problem as "Ice buildup in freezer wall section causing blockage resulting in ER FF error code and damage to evaporator fan."

<b>Quality Alert Report</b>		MGR	SVC DIR	CFO	GEO
Ref #: DS003 Date: April 20 <sup>th</sup> 2008		Sales Dir.: BM:			
Reporter	Andrew Lauder		Alert Grade : Y R		
Sources	<input type="checkbox"/> Dealer claim <input type="checkbox"/> Customer voice <input type="checkbox"/> ASC information		<input type="checkbox"/> Part usage <input type="checkbox"/> Return <input type="checkbox"/> IGC <input checked="" type="checkbox"/> Warranty Claim <input checked="" type="checkbox"/> Others		
Product Information	• Product : Bottom Freezer SER# : • First date of Sales : • Sales Q'ty : • Failure q'ty / Ratio :				
Quality issues	Symptoms (Key points)				
	Ice buildup in freezer wall section causing blockage resulting in ER FF error code and damage to evaporator fan.				
	Causes (Key points) • Excess insulation traps water and create environment for ice to form causing the blockage. • Solution is in pictures that follow				
Final approval	<input type="checkbox"/> Stop selling <input type="checkbox"/> Keep selling				
F/up record					SVC Dir.
Copy to	Sales Dir. , BM, SVC Dir. , Factory				



LG Electronics Canada

42. In addition, consumers have been complaining to Defendant about fans freezing over and failing in earlier, but substantially identical, models of LG refrigerator since well before

the Class Period. For example consumers made the following complaints between 2009 and 2010 on various consumer and seller websites, including on LG's own, which specifically reference their communications with LG:<sup>11</sup>

a. "...When the fan broke down, ***I phoned LG.*** ... the error code on the computer display meant that my fridge had completely shut down. ... When I woke up the next morning, I found all of my food spoiled and the frozen food in the freezer was thawed..." (Complaint posted in 2009.)<sup>12</sup>

b. "Within first 8 mo. French door lg reffridgerator started to make much noise. BestBuy refered me to their service provider. ***They replaced a fan motor, then 1mo later at our own expence of 574.00 later, the loud noise returned.*** Again it started to make significant noise. This time we put up with it for awhile, until the error message appeared. Another repair company out in late January 2009 The tech said it was a circuit board inside the freezer not allowing the build up of ice to defrost and motor would not turn. We were told lg would not release the part until 3/19/2009. It is now 3/28/2009 and still no part! Life is not good at our house, ***having to melt ice with a blow dryer and keeping frozen foods to a minimum.*** I am afraid it will totally quit working." (Complaint posted in 2009.)<sup>13</sup>

c. "From day one, this fridge has proved to be defective. The switches are freezing up ***and fans are freezing.*** ... The fans are noisy and cooling has been a problem. I purchased this in September 2009 and it is still under warranty. ***Now, LG is giving me a hard time.***" (Complaint posted in 2010.)<sup>14</sup>

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<sup>11</sup> All emphasis in consumer complaints and reviews quoted herein is supplied. All typographical errors are in originals.

<sup>12</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html?page=50](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html?page=50).

<sup>13</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html?page=51](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html?page=51)

<sup>14</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html?page=43](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html?page=43)

d. “[T]he unit started making a loud, grating sound. ***LG sent out a service man.*** He found a 1/2” to 1” coating of ice had formed on the back inside wall of the freezer compartment which was blocking the fan. With the unit unplugged, that ice melted enough that he could peel off the ice. The fan then ran as normal. However, the service man expressed surprise that so much moisture had accumulated to freeze over the entire back wall. But he could find no cause. He suggested that it might be smart to replace that fan since it probably had run almost continuously due to the ice problem and thereby incurred unusual hours and wear and tear in the days preceding his visit...” (Complaint posted in 2010).<sup>15</sup>

e. “***I contacted LG Customer Service*** about problems with my fridge. I had problems with food spoilage within a couple of weeks and I lost a lot of food during this time and couldn’t figure out what was going on. A fan in the fridge was not working properly and they had to come out a couple of times before that got fixed. I have two freezer drawers and the bottom drawer never closes right, never did, and they never fixed it. It freezes and when I get ice, the door stays open. When the door is left open for just a small amount of time, the ice maker has problems dispensing ice. I’ve complained about all of these things...” (Complaint posted in 2010.)<sup>16</sup>

***Defendant’s Knowledge of the Ice Maker Defect before the Class Periods***

43. Likewise, with respect to the Ice Maker Defect, consumers have been complaining about the ice makers in some of the Class Refrigerator models and some earlier models of LG’s refrigerators with ice makers in their doors freezing over and ceasing to produce ice since long before the Class Periods.

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<sup>15</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html?page=44](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html?page=44)

<sup>16</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html?page=43](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html?page=43)

44. Defendant is aware of the Defect in its icemaker designs as a consequence of prior litigation.<sup>17</sup>

45. In addition, a flood complaints were posted online before the Class Period indicating that the problem had been reported to LG:

a. “...The problem got worse, *the dispenser would clog up and when you held the glass under, nothing would come out. Using a wooden spoon to dislodge the cubes would bring an avalanche of crushed and cubes crashing all over the place...* I would not recommend an LG refrigerator to my worst enemy ...”<sup>18</sup> (Complaint posted 2009.)

b. “...*From the very beginning, the ice maker would jam. ... an LG repair technician has come out five times and a non-LG technician once. They have adjusted the ice maker flapper spring, replaced the ice bin, replaced the whole freezer door which has the ice maker in it, replaced the flapper spring with a stronger one and loosened the screws on the flapper bracket. Still, no fix. ...*” (Complaint posted 2009.)<sup>19</sup>

c. “I bought an LG refrigerator a year ago. *The ice maker does not work and constantly freezes up. On its own, it will just shut off not making any ice.* One repairman came out and *he could not fix it.*” (Complaint posted 2010).<sup>20</sup>

d. “We bought our \$2000 LG refrigerator 3 years ago. *We have had constant problems with the ice maker and it currently does not make ice. It freezes. Then we turn it off to thaw it out and it still doesn’t work.* It has been repaired once already (after the warranty

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<sup>17</sup> *Clark v. LG*, C.D. Cal., 3:13-cv-00485. The LG models at issue in that case were manufactured between March 2011 and May 2013, and included: LFX33975ST; LFX31915ST; LFX31925SB; LFX31925ST; LFX31925SW; LMX31985ST; LFX31935ST; LFX31945ST; LFX25991ST; LSFD2591ST; LFX31995ST.

<sup>18</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html?page=49](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html?page=49)

<sup>19</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html?page=48](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html?page=48)

<sup>20</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html?page=45](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html?page=45)

expired, of course). ... I'm so fed up and frankly can't believe how matter of fact they are about a \$2000 refrigerator that doesn't work properly." (Complaint posted 2010).<sup>21</sup>

e. "We purchased an LG Model LFX25960ST Refrigerator in 04/07. *The ice maker has broken 3 times and had to be replaced 3 times. Only the first replacement was covered by their warranty. The others cost \$320 each.* The 1-800 customer service number is useless...*This ice maker should be redesigned, since it is obviously defective...*" (Complaint posted 2010.)<sup>22</sup>

f. "From the very beginning, the freezer door pops open slightly when the fridge door is closed. It isn't always noticed until water puddles up on the floor. The hose to the ice maker has been fixed 7 or 8 times because it keeps splitting. *The ice maker jams up and won't release the ice.* Today, I woke up to water all over the floor. There was no power to the whole unit. I checked the outlet and there was power. I can't get a hold of a repairman." (Complaint posted 2011).<sup>23</sup>

g. "*The LG ice maker design is flawed (LG Refrigerator LFX25975ST103). ... The ice maker would not function and was replaced after numerous service calls between September 2010 and January 2011. It has never functioned properly, always crushing most of the ice. This leads to a crushed ice dam that forms in the door. Eventually, one must clean out this mess.* After being a slave to service calls in 2010, I decided to utilize my Home Depot extended warranty and attempt once more to have ice from this very expensive investment. ... A crack existed in the ice hopper and a very talented serviceman came to my home, analyzed the problem, and ordered a new ice hopper. *The part arrived last week and since then, the same problem has existed.* Now, I am unable to remove the ice hopper due to the ice dam in the door.

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<sup>21</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html?page=43](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html?page=43)

<sup>22</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html?page=44](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html?page=44)

<sup>23</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html?page=39](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html?page=39)



This entire problem is due to the design. We keep the temperature in our home at just under seventy degrees year-round. When the left door is opened, the vents between the main refrigerator body and the door allow warmer air to enter the ice maker. The flap door that opens to allow ice to eject also allows warm air to enter due to the long length of the trap door opening, 5 seconds. This allows some melting of the ice that is trapped and crushed in the hopper to melt then re-freeze in the blades. Then the damming cycle begins once again.” (Complaint made in 2012, referencing service calls made in 2010 and 2011.)<sup>24</sup>

46. Notably, certain of these reviews also make clear that the consumers contacted LG about the problem and/or were specifically told that LG was aware of the Ice Maker Defect. These comments include the making of calls requesting repairs during the manufacturer warranty period. *See, e.g.*, subparagraphs b, c, e and g above.

***Extraordinary Number of Consumer Complaints about the Defects in the Class Refrigerators***

47. More recently, during the Class Period, there has been a virtual tidal wave of customer complaints about both the Fan Defect and the Ice Maker Defect for the Class Refrigerators, both on Defendant’s website and elsewhere. For the consumers who felt compelled to write about their poor experiences, the Refrigerators failed in their essential purpose of keeping food at appropriate temperature. Information about many of the failures reflected in these complaints would, on information and belief, have been provided to Defendant, by service people seeking information on repair or to obtain replacement parts.

48. Notably, of the 266 ratings of Defendant’s Refrigerators tallied on the *Consumer Reports* website as of the filing of this complaint, the vast majority -- 235 -- are for just one star (the lowest rating possible), 10 are for two stars, and only 21 have three stars or above.<sup>25</sup>

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<sup>24</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html?page=34](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html?page=34)

<sup>25</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html)

49. Of 54 reviews on Amazon as of the filing of this complaint, for the model purchased by Plaintiff, 65% of reviewers gave the product the lowest rating of one star.<sup>26</sup>

***Extensive Consumer Complaints about the Fan Defect in the Fan Defect Class Refrigerators***

50. Angry and frustrated purchasers of Defendant's Refrigerators who experienced the same sequence of events – noise from the fan, then the fan motor ceasing to work, and examination of the fan revealing an accumulation of ice – have published their complaints on an array of consumer and retail websites.

51. The following are examples of negative reviews posted by angry customers concerning the Defect in the exact model purchased by Plaintiff, Model LFXC24726S:

a. “OK, 2 failures since purchase....I purchased this refrigerator about 2 years ago. *A little over a year into ownership* we had to have the main circuit board replaced. *The repairman said it was due to a design flaw and that he had seen this same problem in several other LG models that use the same piece. Apparently the fan doesn't move enough air in the right places and ice buildings up, and backs up into the circuit board or something causing it to short out.* Wonderful, right? Thank god I had paid for the extended warranty because the repairman said the diagnosis, parts, and repair would have totaled about \$600. Well today, now about 2 1/2 years into ownership, the water dispenser suddenly stopped dispensing water. It's not the filter. No idea what the problem is, and my warranty is up of course. Can't wait to see this repair bill....”<sup>27</sup>

<sup>26</sup> [https://www.amazon.com/LG-LFXC24726S-French-Refrigerator-Stainless/dp/B00NO5WOIY/ref=sr\\_1\\_1?ie=UTF8&qid=1494960224&sr=8-1&keywords=LFXC24726S](https://www.amazon.com/LG-LFXC24726S-French-Refrigerator-Stainless/dp/B00NO5WOIY/ref=sr_1_1?ie=UTF8&qid=1494960224&sr=8-1&keywords=LFXC24726S)

<sup>27</sup> [http://www.homedepot.com/p/LG-Electronics-23-7-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-Counter-Depth-LFXC24726S/205343795?keyword=LFXC24726S\\_](http://www.homedepot.com/p/LG-Electronics-23-7-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-Counter-Depth-LFXC24726S/205343795?keyword=LFXC24726S_)

b. “If you want a refrigerator that lasts more than a year, don’t buy this LG fridge. Don’t take my word for it, go on line and google the model number and learn how *the fan motors freeze up just after the warranty expires. (Amazingly, the LG website doesn’t have reviews that indicate this enormous problems. [ . . . ] Also, the ice makers are almost as bad.* Once your LG breaks down, try to find a competent LG tech. The bells and whistles LG flashes you are attractive; however, you need to keep your food cold, first and foremost. I’ll forgo the LED lights for cold air from now on...\$3,000 down the drain!”<sup>28</sup>

c. “... Buyer beware - *this unit has a known defect.* Keep reading for details. This 24.0 cu ft. counter depth refrigerator made it’s debut in the fall of 2014. I previously purchased a 28 cu ft. LG unit in 2009 and I absolutely loved it. I bought the 24.0 counter depth fridge in Sept. 2014 after a recent kitchen remodel and I have had a lot of problems. The first thing I noticed was how loud it was compared to my old LG unit. There is also a lot of vibration. In December 2014 my new LG started making a loud humming noise - it was clearly a fan spinning because when I opened the door you could hear it stop. I contacted LG customer service and they ran the diagnostics which seemed to solve the problem - *but it was only temporary; the loud fan noise returned three weeks later.* I contacted customer support again and they dispatched a technician the next day. I asked the tech why the unit was so loud? He informed me that the newer LG refrigerators were, in fact, louder. He told me LG had increased the torque of the three fans inside the unit. This change was intentional, to make the unit more efficient in cooling. *We emptied out the freezer and took the back off to reveal a major ice jam on the defrosting coils. The tech called the LG factory and he was told this was a known issue (defect!). At this time, LG does not have a fix for this issue - they have not published a bulletin*

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<sup>28</sup><http://www.homedepot.com/p/LG-Electronics-23-7-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-Counter-Depth-LFXC24726S/205343795?keyword=LFXC24726S>

*with the affected serial numbers.* All the Tech could do for me was to *melt the ice jam using a heat gun* and hope it does not happen again. He instructed me to contact customer service if the noise returns. Obviously, this is not acceptable; I plan to escalate until LG either fixes my new fridge or gives me a refund.”<sup>29</sup>

d. “Pick Another Refrigerator This One is Nothing But Aggravation . Let me start off by saying that I bought this from another retailer. I initially loved the look and functionality of my new fridge. Now 10 months old this is what I just experienced: *My 10 month old french door refrigerator’s fan starting making a loud noise. I looked up my problem on the internet and found that my unit has a know frost buildup issue.* I called LG since it was still under warranty. They diagnosed the unit over the phone and scheduled a service appointment for me. A new control panel was mailed out to me. The tech was supposed to be at my home between 8 am and noon yesterday. I received a phone call the night before confirming him for between 10 and noon. The tech did not show up until 1:05. *He then proceeded to empty out my fridge, remove all of the shelves and the bins. The vent behind the veggie bin was encrusted with ice which he melted and chiseled away. Then the back panel inside was removed which revealed the entire coil frozen and encrusted with ice. It took until after 3 PM for him to melt all of the ice. . . .*” The tech pulled out the fridge and replaced the control panel on the back. [O]ne day later, *the fridge has begun to make the same sound and the ice is already forming around the vent.* I was assured the control panel (brain) would fix the problem. Well it seems to me that this is not the case and I know *have to go through this again not knowing if the LG tech can figure out what actually is wrong.* [ . . . ] I’m regretting my decision to go with LG. I should have purchased a Samsung refrigerator. I will never purchase another LG product again.

<sup>29</sup>[https://www.amazon.com/LG-LFXC24726S-French-Refrigerator-Stainless/product-reviews/B00NO5WOIY/ref=cm\\_cr\\_ar\\_p\\_d\\_viewopt\\_kywd?ie=UTF8&reviewerType=all\\_reviews&pageNumber=1&filterByKeyword=2014](https://www.amazon.com/LG-LFXC24726S-French-Refrigerator-Stainless/product-reviews/B00NO5WOIY/ref=cm_cr_ar_p_d_viewopt_kywd?ie=UTF8&reviewerType=all_reviews&pageNumber=1&filterByKeyword=2014)

Am I expected to miss another day of work to be available for service, suffer the mess and inconvenience of the repair process and then not know if after the second visit if it will be fixed or not?”<sup>30</sup>

e. “Purchased for kitchen remodel, considering either the Samsung or LG brands. *Ran perfectly for about 5 months, then refrigerator cooling fan system failed wherein freezer was properly chilled but refrigerator was only somewhat barely chilled.* Initiated warranty repair service immediately with LG, noting the error code displayed on the door panel. ... *Apparently, this repair problem is not uncommon....*”<sup>31</sup>

f. “*Within the first year, the fan motor has gone out twice, showing the Error Code on the front panel. [ . . . ] I fear that when I get the second replacement it will fail again, when I am beyond the warranty of this expensive appliance.* It is disappointing that I had to get ice and put my food in coolers, not knowing when the repair people will be here and if the replacement part is in stock. The inconvenience of time, ice/cooler and buying replacement food makes for an unhappy customer.”<sup>32</sup>

g. “1.0 out of 5 stars - Avoid LG at all costs! ... I will never, ever buy another LG product again. We just threw away \$2500 for a refrigerator *that barely lived past the 12 month warranty.* Our 16 month old LG refrigerator (LFXC24726S) died (*it completely filled with ice first inside the insulation, then in the refrigerator compartment until it froze up the fan*), and during the week it took LG to send a tech, another repairman came out and diagnosed a faulty motherboard that was sending the wrong signal to the thermostat. This cost us \$400 in food and the initial service call from the independent co. ***LG had agreed to provide parts and***

<sup>30</sup>[https://www.amazon.com/gp/customer-reviews/R24OJ135I9KS48/ref=cm\\_cr\\_getr\\_d\\_rvw\\_ttl?ie=UTF8&ASIN=B00NO5WOIY](https://www.amazon.com/gp/customer-reviews/R24OJ135I9KS48/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B00NO5WOIY)

<sup>31</sup><http://www.homedepot.com/p/LG-Electronics-23-7-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-Counter-Depth-LFXC24726S/205343795?keyword=LFXC24726S>

<sup>32</sup><http://www.consumerreports.org/products/french-door-refrigerator/lg-lfxc24726s-375917/overview/>

*labor free because it was a known defect.* When the LG authorized serviceman finally showed up, he belittled me and said that it would be just fine if he defrosted it and repositioned the thermostat. He promised that if we had additional problems, they would take further action. He refused to replace the thermostat or the motherboard. *Now, 4 months later we are in the same exact position with a non-working unit- completely iced over, loss of another \$400 worth of groceries, and LG refuses to even send a technician. They literally hung up on my husband twice when he asked to speak to a supervisor.* \$2500 down the drain for a unit with a KNOWN defect. It lasted 20 months. I've never seen a company take so little pride in their product. LG, you ought to be ashamed.”<sup>33</sup>

h. “LFXC24726S Error Code: E rF & Cause for Ice Buildup on Evaporator and Fan? ...A few weeks ago I noticed that our year and a half old refrigerator was making an unusual noise. The next morning it had the E rF error code. I unplugged it for a few hours, hoping that it would reset the problem. It bought me a few weeks, but the problem just got much worse. I saw a few of the other threads on here with others with the same error and went ahead and ordered a replacement for the fan. The fan arrived today and I disassembled the refrigerator section to replace the fan. *Once I got it taken apart I noticed there was quite a bit of ice build up along the back wall and throughout the evaporator. There was also a good chunk of ice that wouldn't allow the fan to spin. I melted the ice with in both places with a hairdryer.* Once the ice was melted, the original fan spun smoothly, I went ahead and reconnected the fan and powered it back up to check if it was function and it was. I decided not to replace the fan at this

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<sup>33</sup>[https://www.amazon.com/gp/customer-reviews/R1QC61G3JR5ANH/ref=cm\\_cr\\_ar\\_p\\_d\\_rvw\\_ttl?ie=UTF8&ASIN=B00NO5WOIY](https://www.amazon.com/gp/customer-reviews/R1QC61G3JR5ANH/ref=cm_cr_ar_p_d_rvw_ttl?ie=UTF8&ASIN=B00NO5WOIY)

time. My question is what could be causing the ice buildup to be so severe and is there any way to fix for that?”<sup>34</sup>

i. “Problems At 9 Months - At 9 months of age my fridge started having very loud fan noises. Only when the door was closed. *After 4 weeks of this happening about once every 4 days I got an error code on the door. Code rF (fan) the food in the top shelves got warm and the meat in the bottom drawer was freezing.* The regular freezer was fine. After 4 days the LG repairman came. *He said ice around the internal upper evaporator fan.* Unplug and leave the doors open for 24 hrs. After that there was a lot of water under the bottom meat drawer. It is back to running fine. I hope it stays that way.”<sup>35</sup>

52. In addition, multiple of reviewers of LG refrigerators observed that LG repeatedly sought to prohibit negative reviews on its website. For example, one consumer reported, “I have attempted to leave a review on the LG site, but they reject all negative reviews. I noticed that other review sites pull reviews from the LG site as well, so they have artificially inflated reviews throughout the internet.”<sup>36</sup> Another commented, “DO NOT trust the LG side for your reviews, they manipulate the reviews and post what they want, I tried to post over there and they denied it because it did not meet their guidelines. In Amazon this product has 2 stars and in there's it has almost five. I guess the guidelines are that if you say something negative they won't post it.”<sup>37</sup>

53. Nevertheless, LG’s product webpage for Plaintiff’s refrigerator model includes the following negative reviews specifically concerning the Fan Defect:

a. “AT FIRST, I DID NOT KNOW IF I WANTED TO KEEP IT! -- I

<sup>34</sup><https://www.applianceblog.com/mainforums/threads/59579-LFXC24726S-Error-Code-E-rF-Cause-for-Ice-Buildup-on-Evaporator-and-Fan>

<sup>35</sup><http://www.consumerreports.org/products/french-door-refrigerator/lg-lfx24726s-375917/overview/>

<sup>36</sup><https://www.amazon.com/LFX25974ST-Freestanding-Refrigerator-Capacity-Stainless/dp/B005VV62QY>

<sup>37</sup>[https://www.facebook.com/permalink.php?story\\_fbid=807780039296633&id=645515305523108](https://www.facebook.com/permalink.php?story_fbid=807780039296633&id=645515305523108)

bought this LG from Sears and it was delivered about 12/9/14. It worked well for about 4 or 5 days and then started making a loud noise. I called Sears and a man came and said the gasket around the freezer door was not sealing tight and cemented the 4 corners. *This helped a little and then got loud again.* The man came back and said that he would have to take it apart or I could call LG. *I called and you sent a man out and he took it apart and remove a lot of ice from the fan.* It has been quiet since then *but I keep thinking that the fan will ice up again.*”<sup>38</sup>

b. “I have same refrigerator. *One month after the warranty expired the fan was making noise and the temperature was not distributed evenly within the unit.* Eventually *noticed ice build up behind* the drawers. Called Sears for service and was advised that the motherboard was defective and they ordered a new one. Approx cost of repair after 14 months \$500.”<sup>39</sup>

54. In addition, certain reviewers revealed that Defendant was aware of the Defect yet took no action to address it:

a. “LG sent us a letter stating: *We have identified the need to service these units to prevent occasional ice build-up behind the crisper compartment in the fresh food area* of the refrigerator. There is a relatively simple repair that LG will offer to you at no charge. That letter was dated March 6, 2015 and as of today, 12/10/ 2015, *I am told to still wait for their call to come service it.*”<sup>40</sup>

b. “Do not buy this refrigerator! It has been leaking from the door under the ice maker onto my wood floors since day one. I have contacted LG (per Costco customer service) and still not received an appointment for service to repair it. *In the meantime (while I*

<sup>38</sup> <http://www.lg.com/us/refrigerators/lg-LFXC24726S-french-3-door-refrigerator>

<sup>39</sup> <http://www.lg.com/us/refrigerators/lg-LFXC24726S-french-3-door-refrigerator>

<sup>40</sup> <https://www.costco.com/LG-24CuFt-3-Door-French-Door-Ultra-Capacity-Counter-Depth-Refrigerator-in-Stainless-Steel.product.100146708.html>



*wait for service for the leak), I received a notice from Costco that there is another problem with this refrigerator having to do with condensation buildup behind the crisper which requires service from LG.* These are not issues you expect from a VERY EXPENSIVE refrigerator. I will request a refund/return from Costco at this point. But, this is a real pain to accomplish when you are dealing with an item you use every single day and which is filled with hundreds of dollars of food. It is not easy to exchange or return a refrigerator. Costco should not sell this item anymore. It is not up to Costco standards.”<sup>41</sup>

c. “My refrigerator is making a roaring noise. It is 5 months old. LG (once I got through on the phone) said someone would be here today to fix it. No, they lost the appointment. *Costco sent an email saying this model was defective, and I would hear from LG about the fix. No. I have no idea if this will get fixed, as the LG system doesn’t necessarily generate a real world repair visit...*”<sup>42</sup>

55. Defendant continued to sell the Refrigerators yet failed to advise retailers and customers of the Fan Defect and failed to promptly repair the Fan Defect.

56. The same Fan Defect is also found in a host of Defendant’s other models, each of which utilize the same Smart Cooling or Smart Cooling Plus system with dual evaporator fans.

57. For example, with respect to Model LFXS30726S, a slightly larger but otherwise identical version of the Refrigerator purchased by Plaintiff (the two refrigerators share a user manual), the following were among the reviews posted on the Home Depot website:

a. “DO NOT BUY - 1.0 out of 5... I bought this fridge in 9/11, the first one delivered didn’t work properly and was replaced that day. Now, the one we have has never

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<sup>41</sup> <https://www.costco.com/LG-24CuFt-3-Door-French-Door-Ultra-Capacity-Counter-Depth-Refrigerator-in-Stainless-Steel.product.100146708.html>

<sup>42</sup> <https://www.costco.com/LG-24CuFt-3-Door-French-Door-Ultra-Capacity-Counter-Depth-Refrigerator-in-Stainless-Steel.product.100146708.html>

worked right. *The LG technician has come out over 8 times to fix the motherboard and various fans...*if the humidity in my home is too high my freezer stops work...yay! We called LG to get another replacement as the technician told us LG would replace after we got 4 service invoices, but LG would simply tell us that they had to research our case and **would never return our phone calls until the warranty ran out**. I absolutely HATE this fridge and I am still having to pay for it. Cons: poor quality/craftsmanship.”<sup>43</sup>

b. “Worst product ever ... I have had this fridge for 2.5 years now, so I have some experience with it. If you live in a humid environment, DO NOT BUY this product; actually, do not buy this product, period. *Within the first six months the fridge started making a loud noise*. We called LG and they told us to disconnect the unit for 8 hours. We did as we were told and the problem was solved for couple of months. After a couple of months, it did it again. *We called once again and LG sent a technician that disassembled the freezer section and there it was, a big chunk of ice. He used a blower to melt the ice and told us that (in his opinion) the element defrost was poorly designed. The noise is caused by ice freezing on the fan and causing an unbalanced condition. Guess what? Couple of months later it did it again*. At this point, knowing what the problem was, I just opened the freezer door and let the ice melt until the noise was gone. I have been doing that for 2.5 years now every couple of months. The latest news is that the unit stopped working all together, dead, not cooling at all. [ . . . ] I gave it 1 star because I could not give a negative.”<sup>44</sup>

c. “Almost 2 weeks without a refrigerator. 1.0 out of 5. The food in my veg. drawer was freezing but the rest of the refrigerator wasn’t cooling. The temperature in the frig.

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<sup>43</sup><http://www.homedepot.com/p/LG-Electronics-29-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-LFXS30726S/205343283?bvrrp=1999/reviews/product/4/205343283.htm>

<sup>44</sup><http://www.homedepot.com/p/LG-Electronics-29-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-LFXS30726S/205343283>

was 46 degrees. I called LG and they said they would arrange to have a tech. come. I hadn't heard from them after 4 hours so I called back. They said it would take 3-5 days to schedule an appointment. What? So I asked for a list of authorized service companies and had someone at our house the next day. It was determined that I needed a part and that I would have to defrost the entire frig/freezer. ***One week later, the tech came back with a new redesigned panel, however our motor was still full of ice***, so he installed the new back panel and said to let it sit unplugged for another 12 hours. We left it unplugged for a total of 60+ hours to make certain. ***We turned it on last night and after about two hours got an ER f error***. We called LG and they told us to unplug and restart the refrig. We unplugged again and let it sit overnight. We started it up again this morning and after two hours, same error. I called LG three times this morning because I was disconnected after being put on perma-hold. I wanted them to get a service person here today, but of course, they weren't able to do that. I have to wait until Monday to even get in touch with anyone to make another appointment. That will mean 3 service calls & 3 days away from work. It's incredibly frustrating for a 7 month old refrig.”<sup>45</sup>

d. “My fridge is a piece of junk. ... 1.0 out of 5. Today is January 11, 2016 the fridge was purchased on May 24 2015. I am waiting for a repairman to fix the fridge for the second time. For \$2627.24 I expect much more. ***Both breakdowns have been caused by the fridge fan and have caused us to lose hundreds of dollars of food.***”<sup>46</sup>

e. “Big disappointment. 1.0 out of 5. ... We purchased this unit about a year ago and have had many problems with it. ***About 6 months ago a circuit board went bad and the unit could not complete the defrost cycle. Hence, ice built up and eventually stopped the fan***

<sup>45</sup><http://www.homedepot.com/p/LG-Electronics-29-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-LFXS30726S/205343283>

<sup>46</sup> <http://www.homedepot.com/p/LG-Electronics-29-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-LFXS30726S/205343283?bvrrp=1999/reviews/product/3/205343283.htm>

*from running.* Just this week the unit stopped cooling and freezing. A technician (after two service calls) determined that the compressor was bad and needed replacing. Of course the tech does not carry compressors on the truck so we have to wait about a week before a replacement arrives and is installed. We've been without a refrigerator for two weeks and counting. Would not recommend any LG product to a friend.”<sup>47</sup>

58. Likewise, with respect to Model LFX32945ST, another French door, bottom freezer model with the Smart Cooling Plus system: “Default LFX32945ST/02 Error code - door shows e under fridg and rf under freezer. i have a lg 3 door fridge. i am getting what looks like an error code on the door. under refridgerator is has a e and under freezer it has what looks like an rf. if i unplug and replug it goes away for awhile then returns. thanks in advance for any help.” [A technician responded]: ***“The error code e rF means you have a refrigerator fan that has stopped. Possibly from too much ice buildup in the evaporator area.*** Remove the rear wall of the refrigerator panel to access the fan and check for ice buildup. Clear it out and reassemble everything. You may need to unplug the unit to reset the controls. If this happens again, call LG to inquire about this issue and see if they will replace the control board with an updated software version. I checked and your refrigerator is not part of any rework or recall ***but I do know that there is a persistent issue with this problem.*** The issue is the software doesn't allow for proper time to defrost all of the ice and it will slowly buildup and block the refrigerator fan motor from turning. Hope this helps. Appliance Repair Tech, LG Authorized Servicer, Danville, California.”<sup>48</sup>

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<sup>47</sup><http://www.homedepot.com/p/LG-Electronics-29-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-LFXS30726S/205343283>

<sup>48</sup> <https://www.applianceblog.com/mainforums/threads/55180-Error-code-door-shows-e-under-fridg-and-rf-under-freezer>

59. Similar complaints relate to model LG LFXS32766S, another French door, bottom freezer model with the Smart Cooling Plus system: “1.0. Poor design, plain and simple. Have had it repaired twice now in 10 months. Ridiculous. *Ice keeps building on the coil in the refrigerator section. The ice then rubs against the fan blades making a lot of noise and eventually, the ice grows to point that the fan in the fridge section can’t spin at all(resulting in error codes). This is just a terrible design.* I’ll never own an LG fridge again. Bottom Line No, I would not recommend this to a friend.”<sup>49</sup>

60. As to Model LFX28968ST, another French door, bottom freezer model with the Smart Cooling Plus system: “Poor Quality and Unreliable ... 1.0 out of 5. This refrigerator is very poor quality and unreliable as evidenced by the 3 issues we have had with it in only 9 months. Door issues, filter issues and *ice freezing up the fans and causing the unit to stop operating completely.* I would not recommend this refrigerator.”<sup>50</sup>

61. As to Model LFXS30766S, another French door, bottom freezer model, LG’s own website reflects this comment, “KNOWN PROBLEM: *I was told by the technician that this particular unit has a known problem with the PCB board, where the defrost cycle is not long enough and consequently caused frost buildup over time. The frost build up will interfere with the fan inside the main compartment and make a loud grinding noise when the fan is on.* The LG technician worked on my 5 month old unit he was able to replace the PCB board in 5 minutes. However clearing the frost turned ice build up inside the unit took about 1 hr. ...”<sup>51</sup>

Another consumer on LG’s website replied: “You were lucky, the same thing happened to mine

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<sup>49</sup> <http://www.consumerreports.org/products/french-door-refrigerator/lg-lfxs32766s-285048/user-reviews/>

<sup>50</sup> <http://www.homedepot.com/p/LG-Electronics-26-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-LFX28968ST/203288935>

<sup>51</sup> <http://www.lg.com/us/refrigerators/lg-LFXS30766S-french-3-door-refrigerator>.

after only about 14 months and LG told me it was no longer under warranty. I was out of pocket another \$400 to replace it.”<sup>52</sup>

62. Elsewhere on the internet consumers reported about this model:

a. “I bought it 4 months ago and the fan when out then the board!!!!”,<sup>53</sup> and

b. “...This thing never worked from the beginning, the freezer will but the refrigerator will not cool. I called LG and they gave me an appointment for almost two weeks later. So remember to buy some ice the day you receive it because you might need it. The technician came tried some settings change, and we waited for a day, still not cooling. ... New technician, *explain that a fan might be broken*, and order parts. Parts came and a repair was done. Next day, not cooling, call technician directly, he came back, it looks they sent the wrong part, new order, new replacement, not cooling. This is now well into the month of receiving it. ... *Now it looks like it is another fan*. All this while I keep asking them to replace the beautiful but useless refrigerator, and they keep setting me on appointments. ... Well two months into this Life Not been any Good and I still have no working refrigerator. So take my advice and buy a GE or Samsung, or if you have the money (even though this is an already expensive one at \$3000) one of the pro ones that might offer better product and service...”<sup>54</sup>

***Extensive Consumer Complaints about the Ice Maker  
Defect in the Ice Maker Class Refrigerators***

63. Angry and frustrated purchasers of Defendant’s Refrigerators who experienced the same sequence of events as Plaintiff – the in-door ice maker in their LG refrigerator freezing

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<sup>52</sup> <http://www.lg.com/us/refrigerators/lg-LFXS30766S-french-3-door-refrigerator>.

<sup>53</sup> <https://www.ajmadison.com/cgi/bin/ajmadison/LFXS30766S.html?gclid=CP3Epur56tMCFVVXDQoddwgFnw>

<sup>54</sup> <http://www.homedepot.com/p/LG-Electronics-30-cu-ft-French-Door-Refrigerator-with-Door-In-Door-Design-in-Stainless-Steel-LFXS30766S/205339940>

over and ceasing to produce ice until they defrost it, or physically chip the ice away – have published their complaints on an array of consumer and retail websites.

64. The following are examples of negative reviews posted by angry customers concerning the Defect in the *exact model* purchased by Plaintiff, Model LFXC24726S:

a. ***“We bought this refrigerator 2 years ago. Within the first 8 months the ice maker stopped functioning. LG had no repair companies in our area to come to our home, which took three phone calls to LG in order for them to decide it needed a repair. We called Home Depot and they arranged for A&E to repair it. A&E repaired it. Starting 4 months ago ice formed inside the refrigerator, when it got to a certain depth, the ice maker stopped functioning. I defrosted the ice and the ice maker started to work. I had to defrost it again yesterday.”***<sup>55</sup>

b. ***“...Here is evidence of this faulty food preserver’s inability to justify its remaining in our kitchen. \*Ice cube maker and water dispensers replaced twice and frequently leaks or jams. \*Primary circuit board in rear replaced in first year - supposed upgrade. \*Entire freezer back panel and fan replaced at same time as circuit board and is in failure again and so is the ice cube maker and water dispensers out of service - supposed fan failures.”***<sup>56</sup>

c. ***“Nightmare!!!! Worst fridge ever!!! 1.0 out of 5 ... My wife and I are so disappointed with our LG refrigerator!!!! In the 1 year since purchased with extended warranty there have been at least four major service calls !!! Ice cube maker and water dispensers frequently leaking or jams. Water leaking from doors out into floor. Primary circuit board in rear replaced.-Did NOT fix it!!!! The fridge motor or fan is making so much constant noise that***

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<sup>55</sup> <http://www.homedepot.com/p/LG-Electronics-23-7-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-Counter-Depth-LFXC24726S/205343795?keyword=LFXC24726S>

<sup>56</sup> <http://www.homedepot.com/p/LG-Electronics-23-7-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-Counter-Depth-LFXC24726S/205343795?keyword=LFXC24726S>

it finally quit working at ALL last week!!! *We now have a \$3500.00 piece of junk in our new kitchen* :( Stay away from LG Appliances and Home Depot has NOT stood behind this LG fridge they sold us :( Extended warranty has been useless so far!!!”<sup>57</sup>

d. “We have owned this refrigerator just over one month. *We had problems with the ice maker massing. ...About 2 weeks from placing the call to being scheduled for the repair.* ... This is a very expensive appliance and these issues should not happen...”<sup>58</sup>

e. “...The ice maker stopped ‘crushing’ ice last year, and *the whole thing constantly freezes up*, and then drips all over the fridge and floor. I have shut off the ice maker now, and am looking for a replacement fridge...”<sup>59</sup>

f. “... After one year of ownership, and subsequently an expired warranty, the ice dispenser stopped working properly. Big chunks of ice form in the chute that freeze together, blocking ice from exiting properly. I tried removing the ice holder and breaking up the ice in the chute like Kristoff in Frozen, but it inevitably always reforms. I have had two different technicians come take a look and *they cannot come up with a viable solution.* The ice maker still makes ice, but instead of just pushing the chute I have to grab the ice old school with my hands from the ice box, which is not readily accessible. It is not as big of an issue as world hunger, but *in the greater scheme of things when you spend upwards of \$3000 plus for a refrigerator one would expect that it works like it is supposed to. Unfortunately, for me and my family, that hasn’t been the case with this refrigerator.*”<sup>60</sup>

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<sup>57</sup> <http://www.homedepot.com/p/LG-Electronics-23-7-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-Counter-Depth-LFXC24726S/205343795?keyword=LFXC24726S>

<sup>58</sup> <http://www.homedepot.com/p/LG-Electronics-23-7-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-Counter-Depth-LFXC24726S/205343795?keyword=LFXC24726S>

<sup>59</sup> <http://www.homedepot.com/p/LG-Electronics-23-7-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-Counter-Depth-LFXC24726S/205343795?keyword=LFXC24726S>

<sup>60</sup> <http://www.bestbuy.com/site/lg-24-0-cu-ft-counter-depth-french-door-refrigerator-with-thru-the-door-ice-and-water-stainless-steel/7902449.p?skuId=7902449>



g. “...Now I’m stuck with at \$2,500 fridge, *that doesn’t make ice*, or dispense water/ice from the door. The repair tech that came to help each time, told me other horror stories of the way LG treats their customers. He’s worked with all brands of appliances, and the one brand he said he would never buy is LG.”<sup>61</sup>

65. The same Defect is also found in a host of Defendant’s other models with ice dispensers.

66. For example, with respect to Model LFXS30726S, a slightly larger but otherwise identical version of the Refrigerator purchased by Plaintiff (indeed, the two refrigerators share a user manual), the following were among the reviews posted on the various consumer and retail websites:

a. “...The ice maker has had trouble, it has been replaced once with a new one. That worked fine for a while *and then the same problem, ice maker clogs up...*”<sup>62</sup>

b. “Do not buy this refrigerator. *We have had countless problems with ice maker*, and noisy motor. We are forced to defrost the refrigerator every two months to get the noise to go away. Tech service has been no help. I will never buy an LG appliance again.”<sup>63</sup>

c. “We’ve had this refrigerator for about 2 years and have had repeated problems with it. Cannot recommend to anyone - - for the very high price, the build quality is terrible. Several instances of the freezer failing. Numerous service calls. *Ice maker constantly freezes up and will not dispense ice...*”<sup>64</sup>

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<sup>61</sup> <http://www.bestbuy.com/site/lg-24-0-cu-ft-counter-depth-french-door-refrigerator-with-thru-the-door-ice-and-water-stainless-steel/7902449.p?skuId=7902449>

<sup>62</sup> <http://www.homedepot.com/p/LG-Electronics-29-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-LFXS30726S/205343283?keyword=LFXS30726S>

<sup>63</sup> <http://www.homedepot.com/p/LG-Electronics-29-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-LFXS30726S/205343283?keyword=LFXS30726S>

<sup>64</sup> <http://www.homedepot.com/p/LG-Electronics-29-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-LFXS30726S/205343283?keyword=LFXS30726S>

d. “...Problems are as follows after three weeks of ownership 1Ice maker jammed would not dispense ice. Technician showed up had to order mother board. order mother board. 2 Mother board replaced and now the water dispenser won’t work and the temp is off by 10 degrees. 3 Technician shows up and said it is completely unrepairable. 4 Called LG for a replacement and the “games” started. I called a total of 20 times to get a replacement. ...5 ***Got my new LG replacement and within 3 days the ice maker broke same issues. ...***”<sup>65</sup>

e. “...Noticed that ice maker stopped making ice right away. I looked and found the water had overfilled(?) in the ice maker and a little had ran out and frozen on the sensor bar. Broke everything loose and the ice maker started working again. This has happened several times since, but I have not called. In the last 3 days, it happened everyday, so I called. Tech support says it probably has a crack in it, and they are sending a crew with a replacement next week. We will see....”<sup>66</sup>

67. Likewise, with respect to Model LFX32945ST, another French door model with the ice maker in the door:

a. ***“This has to be the worst refrigerator I have had in all my 40 years of owning refrigerators. Have only been using this for 5 months and already it has issues. First issue is with the ice maker, it always jams, and holds back the ice so you must manually hold open the flap to get your ice. And crushing the ice makes it worse yet! Most of the time we have to just empty the ice maker and forget about using the ice dispenser... We are all grown ups living here and have not misused or been rough on this appliance, this is obviously very cheaply***

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<sup>65</sup> <http://www.homedepot.com/p/LG-Electronics-29-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-LFXS30726S/205343283?keyword=LFXS30726S>

<sup>66</sup> <http://www.homedepot.com/p/LG-Electronics-29-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-LFXS30726S/205343283?keyword=LFXS30726S>

*made and has a design problem with the ice maker. For the price we had to pay for this it is totally unacceptable for such poor quality.*”<sup>67</sup>

68. Similar complaints relate to model LG LFXS32766S, another French door, ice dispenser in door model:

a. *“We had this refrigerator just over a year when the icemaker died. I replaced it, then it started leaking. A service call (at our expense, but then waived when he found out it was a known defect in this model) was then required as the refrigerator doors wouldn’t close properly due to ice buildup. ...Get used to seeing "E 1F" when the blower fan in the freezer that supplies cold air to the icemaker compartment becomes caked in ice and doesn’t work. ... This was the biggest waste of money and time for any refrigerator we’ve ever owned. We’ll never buy another LG!”*<sup>68</sup>

b. *“The icemaker is extremely slow, gets frosted up easily and just ices up and sticks so you have to clean it out with hot water. After a few years the Icemaker part broke a piece out so I ordered a new one (\$172.00) hoping that some of the problems would be better, but no such luck. It is a lemon I will never buy an LG again.”*<sup>69</sup>

c. *“...In simple language it was/is a NIGHTMARE of 8 service calls to replace features multiple times - Ice maker, Main Circuit panel, Freezer drawer back fan panel. two Food loss claims and a broke in half door shelf and a couple more aggravations in the four years with only good item is the extended warranty but not the service company responses....”*<sup>70</sup>

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<sup>67</sup> <http://reviews.us-appliance.com/review/lfx32945st/LFX32945ST-LG-Mega-Capacity-3Door-French-Door-Refrigerator-with-DoorInDoor-Stainless-Steel>

<sup>68</sup> <http://www.consumerreports.org/products/french-door-refrigerator/lg-lfxs32766s-285048/user-reviews/#pr-header-back-to-top-link>

<sup>69</sup> <http://www.consumerreports.org/products/french-door-refrigerator/lg-lfxs32766s-285048/user-reviews/#pr-header-back-to-top-link>

<sup>70</sup> <http://www.consumerreports.org/products/french-door-refrigerator/lg-lfxs32766s-285048/user-reviews/#pr-header-back-to-top-link>

d. “Worst ice maker ever!!!!!! I will NEVER buy another LG again, the ice maker stops up every time I use it, very poor design!!!!!!”<sup>71</sup>

69. For Model LFX28968ST, another French door model with the ice maker in the door:

a. “...Life is NOT good with this particular fridge. Before warranty was over the plastic shelves on door began cracking and chipping, *the ice maker in the door does not work. It freezes up and does not crush ice, and you cannot remove the bucket that the ice drops into.* ...”<sup>72</sup>

b. “The ice maker on the first one we bought would refuse to dispense ice intermittently. The dispenser motor would not run - nothing would happen when the ice button was pushed. The whole refrigerator was replaced with a new one. *It has the same problem.* ...”<sup>73</sup>

c. “... have only had it for 5 months and we had to have the service man come and fix the ice maker as it was frozen solid . (agree with other reviewer that you have to bang on the ice door to loosen the ice.)...”<sup>74</sup>

70. For Model LFX21976ST, another French door model with the ice maker in the door:

a. “*These icemaker break shortly after the manufacturers warranty.* Then LG will gladly allow you to pay an additional 400 for their out-of-warranty warranty for an

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<sup>71</sup> [http://www.homedepot.com/p/LG-Electronics-32-cu-ft-French-Door-Refrigerator-with-Door-in-Door-in-Stainless-Steel-LFXS32766S/205339435?cm\\_mmc=Shopping|THD|google|D29+Appliances&mid=st88LmRyy|dc\\_mtid\\_8903tb925190\\_pcid\\_47645856702\\_pkw\\_\\_pmt\\_\\_product\\_205339435\\_slid\\_&gclid=CJnqu9vFwNMCFRZMDQodulAN6g](http://www.homedepot.com/p/LG-Electronics-32-cu-ft-French-Door-Refrigerator-with-Door-in-Door-in-Stainless-Steel-LFXS32766S/205339435?cm_mmc=Shopping|THD|google|D29+Appliances&mid=st88LmRyy|dc_mtid_8903tb925190_pcid_47645856702_pkw__pmt__product_205339435_slid_&gclid=CJnqu9vFwNMCFRZMDQodulAN6g)

<sup>72</sup> [https://www.consumeraffairs.com/homeowners/lg\\_refrigerator.html?page=14](https://www.consumeraffairs.com/homeowners/lg_refrigerator.html?page=14)

<sup>73</sup> <http://www.homedepot.com/p/LG-Electronics-26-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-LFX28968ST/203288935>

<sup>74</sup> <http://www.homedepot.com/p/LG-Electronics-26-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-LFX28968ST/203288935>

additional year and cross your fingers it doesn't break again. If you enjoy donating large sums of money to companies that don't stand by their product, carry on with your purchase, otherwise try a different brand.”<sup>75</sup>

b. “...*The ice maker gets jammed up all the time.* We’re not sure why. It can be resolved by pulling the whole thing out and breaking up the ice with a wooden spoon, but this is very annoying to have to do....”<sup>76</sup>

c. “... *In actual day to day use, even kid glove treatment, it will fail. Water and ice are not user friendly. Ice dams up constantly, does not make enough ice to supply more than 2 or 3 people in a house.* ... Strongly advise avoiding LG appliances.”<sup>77</sup>

71. As to Model LFX25974ST, another French door model with the ice maker in the door:

a. “...*Ice maker never dispensed ice well. Always have to open and break up ice. Then the ice maker quit dumping the ice which then lead to it no longer freezing ice along with the freezer bottom no longer freezing food. So we no longer have ice maker or a freezer on it. Bad design: the water spout is on the front instead of in the water/ice hole...*”<sup>78</sup>

b. “We chose this LG refrigerator thinking it was the latest. Well I do not know if it is a bad design but *we constantly are having trouble with the icemaker. It almost never dispenses*, we have to open it up to get it going. Even if it did function properly the ice

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<sup>75</sup> <http://www.homedepot.com/p/LG-Electronics-19-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-Counter-Depth-LFX21976ST/202362224?bvrrp=1999/reviews/product/2/202362224.htm>

<sup>76</sup> <http://www.homedepot.com/p/LG-Electronics-19-8-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-Counter-Depth-LFX21976ST/202362224?keyword=LG+LFX21976>

<sup>77</sup> <http://www.consumerreports.org/products/french-door-refrigerator/lg-lfx21976-st-159373/overview/>

<sup>78</sup> <http://www.consumerreports.org/products/french-door-refrigerator/lg-lfx21976-st-159373/overview/?page=6>

reservoir is too small. If we have 3 people over we run out of ice. Had my old refrigerator for 16 years never any problems. Although it looks nice ended up downgrading with the new LG.”<sup>79</sup>

c. “I bought this refrigerator three years ago. It is worthless. ... *The ice maker jams constantly and falls apart. Literally into pieces and needs to be re assembled.* Don’t waste your money. This is the worst excuse for an appliance I have seen in a while.”<sup>80</sup>

72. For Model LFXS30766S:

a. “...I connected the water line (their delivery crews do NOT do water line hookups), and neither the water dispenser *nor ice maker work.*”<sup>81</sup>

b. “...*Ice piles up in the delivery chute and plugs it up. The service guy came out and replaced the ice maker and the same problem occurred.* I would take my 24 year old refrigerator back instead of this poorly designed refrigerator *LG is aware of the problem and is apparently willing to do nothing....*”<sup>82</sup>

### ***Defendant’s Omissions and Misrepresentations Relevant to the Defects***

73. Defendant’s sale of the Defective Refrigerators is particularly egregious due to its knowing omissions about and concealment of both the Fan Defect and the Ice Maker Defect. Defendant’s unfairness to consumers in selling these models is further exacerbated by the actual misrepresentations that it made in its marketing and promotion of the defective Class Refrigerators.

74. First, Defendant never publicly disclosed the Fan Defect. No consumer wants to buy a refrigerator that cannot be relied on to keep food at appropriate temperatures. Defendant

<sup>79</sup> <http://www.bestbuy.com/site/lg-24-7-cu-ft-french-door-refrigerator-with-thru-the-door-ice-and-water-stainless-steel/2869309.p?skuId=2869309>

<sup>80</sup> <http://www.consumerreports.org/products/french-door-refrigerator/lg-lfx21976-st-159373/overview/>

<sup>81</sup> <http://www.homedepot.com/p/LG-Electronics-30-cu-ft-French-Door-Refrigerator-with-Door-In-Door-Design-in-Stainless-Steel-LFXS30766S/205339940>

<sup>82</sup> <http://www.homedepot.com/p/LG-Electronics-30-cu-ft-French-Door-Refrigerator-with-Door-In-Door-Design-in-Stainless-Steel-LFXS30766S/205339940>

had numerous opportunities to warn of the Defect via its website, in brochures or advertisements, or at the point of sale. Instead, Defendant actively concealed the problems with the Refrigerators of which it was aware. Had Defendant disclosed the Defect, consumers would not have been injured.

75. Likewise, Defendant never publicly disclosed the nature and extent of the Ice Maker Defect. At all times it omitted from all communications the reality that the Class Refrigerators suffered from a Defect that created a high likelihood that if the Ice Makers were used normally and in an ordinary manner, they would clog and cease to dispense ice.

76. In addition to its omissions, Defendant has made actual misrepresentations disseminating false and misleading information about its Refrigerators relating to each of these Defects on its on website. Substantially similar information appears on the websites of many of the retailers that sell the Refrigerators, and on information and belief Defendant is the source of that information.

77. The placement of false information on the Internet is particularly important because a significant majority of consumers conduct online research before purchasing a major appliance such as a refrigerator. Manufacturers' and retailers' websites are the most convenient and comprehensive places for consumers to obtain specific information about the features of particular models, their specifications and prices, and to perform comparisons between options. Defendant was the prime, if not only, source of that information for the Defective Class Refrigerators.

78. Defendant uniformly represented and continues to represent that its Refrigerators are high end and high functioning. On its own website (of which its retailers' websites replicate significant portions and/or to which they contain links, as described below), Defendant informs

consumers that the Fan Defect Class Refrigerators provide “superior” cooling, temperature regulation and airflow for freshness. Defendant also indicates that consumers can have “Peace of Mind” as to the longevity of their Refrigerators. Moreover, Defendant conceals this known Defect rather than disclosing it to consumers.

79. Defendant’s pages on its website for all of the Refrigerators in the Fan Defect Class either include a video to promote Defendant’s “Smart Cooling Plus System” (a system that purportedly moves cold air to keep food at appropriate temperature), or set forth text with substantially similar language, which is false and misleading in light of the Fan Defect that renders these Refrigerators likely to fail in regulating temperature properly.

80. Defendant’s web pages for most of the Fan Defect Class models including: LFXC24726S, LFXS30726S, LFXS32766S and, LFXS30766S, illustrate the video and associated voiceover:

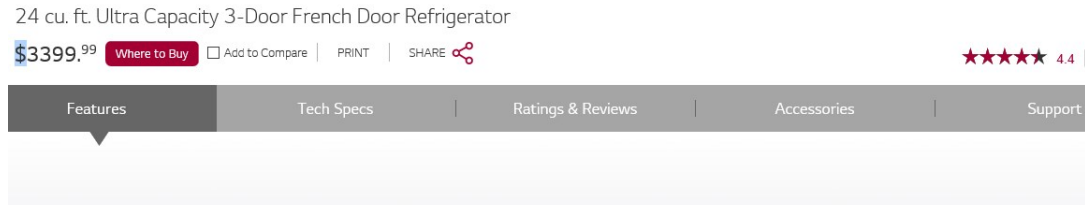
Fresher is better. To help keep all your favorites fresh longer, the LG Smart Cooling System helps keep food at correct consistent temperatures. The average household wastes \$1800 in food per year mainly due to a loss of freshness, but not all refrigerators have the same ability to preserve food. LG refrigerators have digital sensors inside the fresh food section that closely monitor temperature and humidity levels. When changes are detected LG’s Linear Compressor and Dual Evaporator quickly react to help maintain optimal conditions and keep food at its peak. ... LG’s technology uses well placed vents in every section to surround your food with cool fresh air no matter where you put it ... No wonder LG’s smart cooling system is the freshest idea in refrigeration.

81. The following screen shot illustrates Defendant’s webpage for the Refrigerators with the video:<sup>83</sup>

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<sup>83</sup> These screenshots were taken from LG’s website, <http://www.lg.com/us/refrigerators/lg-LFXC24726S-french-3-door-refrigerator>, on March 2, 2017. The same video is also posted on LG’s



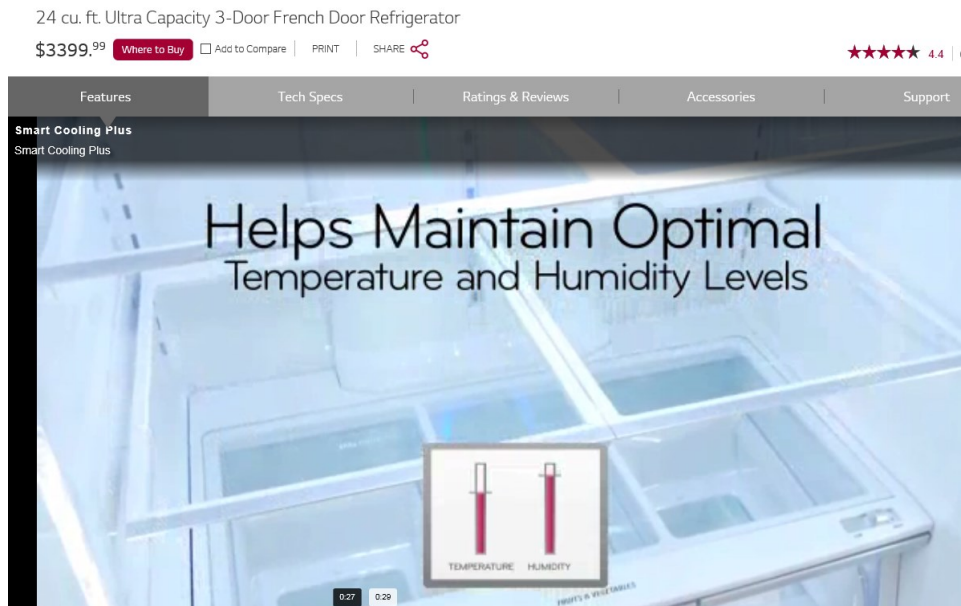


## Fresher is better.

Smart Cooling® Plus technology is designed to maintain superior conditions within the refrigerator. The Linear Compressor and Dual Evaporators react quickly to humidity and temperature levels and help keep your food fresher, longer.



82. The following screen shot illustrates Defendant's website as the video is played and explains the Smart Cooling technology:



websites for other models of its refrigerators with the Smart Cooling Plus System. *See, e.g.,* <http://www.lg.com/us/refrigerators/lg-LFXS30726S-french-3-door-refrigerator>.

83. On the webpages for the only two Fan Defect Class Models that do not actually include the video, LFX25974 AND LFX532945ST, Defendant nonetheless includes the key language that is in the videos. The page for Model LFX25974 says the “Smart Cooling® system is designed to maintain superior conditions within the refrigerator. The Linear Compressor reacts quickly to temperature fluctuations and helps keep your food fresher, longer. Meanwhile, strategically-placed vents in every section surround your food with cool air no matter where you put it.”<sup>84</sup> Similarly, the page for Model LFXS32945ST says, “LG’s Smart Cooling Plus is designed to monitor and maintain conditions to help keep food fresh.”<sup>85</sup>

84. Many websites of the stores that sell these Fan Defect Class Refrigerators, including Costco.com and AJMadison.com, contain links to LG’s Smart Cooling Plus video. Other websites that do not contain actual links to the video, nonetheless contain key language in their product features descriptions, such as, on bestbuy.com:

Smart Cooling Plus technology quickly adjusts to internal changes. The Linear Compressor and Dual Evaporators react swiftly to humidity and temperature levels, maintaining the right conditions for produce and other groceries.<sup>86</sup>

And, similarly, on homedepot.com:

Smart Cooling Plus technology maintains superior conditions within the refrigerator. The Linear Compressor and Dual Evaporators react quickly to humidity and temperature levels and help keep your food fresher, longer. Strategically-placed vents in every section surround food with cool, fresh air.<sup>87</sup>

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<sup>84</sup> <http://www.lg.com/us/refrigerators/lg-LFX25974ST-french-3-door-refrigerator>.

<sup>85</sup> <http://www.lg.com/us/refrigerators/lg-LFX32945ST-french-3-door-refrigerator>

<sup>86</sup> [http://www.bestbuy.com/site/lg-24-0-cu-ft-counter-depth-french-door-refrigerator-with-thru-the-door-ice-and-water-stainless-steel/7902449.p?skuId=7902449&extStoreId=&ref=212&loc=1&ksid=124a59eb-ceb8-450e-bf71-e89a129d50ae&ksprof\\_id=13&ksaffcode=pg199538&ksdevice=c&lsft=ref:212,loc:2](http://www.bestbuy.com/site/lg-24-0-cu-ft-counter-depth-french-door-refrigerator-with-thru-the-door-ice-and-water-stainless-steel/7902449.p?skuId=7902449&extStoreId=&ref=212&loc=1&ksid=124a59eb-ceb8-450e-bf71-e89a129d50ae&ksprof_id=13&ksaffcode=pg199538&ksdevice=c&lsft=ref:212,loc:2)

<sup>87</sup> [http://www.homedepot.com/p/LG-Electronics-23-7-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-Counter-Depth-LFXC24726S/205343795?cm\\_mmc=Shopping|THD|google|D29+Appliances&mid=syealFZVr|dc\\_mtid\\_8903tb925190\\_pcid\\_156359935361\\_pkw\\_\\_pmt\\_\\_product\\_205343795\\_slid\\_&gclid=CMitlsqRyNMCFRJXDQodjwMKIw](http://www.homedepot.com/p/LG-Electronics-23-7-cu-ft-French-Door-Refrigerator-in-Stainless-Steel-Counter-Depth-LFXC24726S/205343795?cm_mmc=Shopping|THD|google|D29+Appliances&mid=syealFZVr|dc_mtid_8903tb925190_pcid_156359935361_pkw__pmt__product_205343795_slid_&gclid=CMitlsqRyNMCFRJXDQodjwMKIw)

85. All of the foregoing statements are false and misleading due to the Fan Defect. The Fan Defect Class Refrigerators were designed and manufactured with a defect that made their fans likely to stop circulating air throughout the units, and thus it is highly unlikely that they can be relied upon to, as promised, “Maintain Optimal Temperature and Humidity Levels.”

86. With respect to the Ice Maker Defect, Defendant’s website and those of its vendors also contain misrepresentations and material omissions. More specifically, they represent these Refrigerators as including “Ice Dispenser” and/or “Ice and Water Dispenser” units, and state that these units will produce a certain amount of ice per day. This is misleading given that the units are designed and/or manufactured with a Defect they have at the time they leave the manufacturer’s possession, that makes them extremely likely to routinely experience melting and refreezing of the ice into large pieces that block the dispenser. Defendant’s misstatements and omissions about the ice makers are further misleading because they do not disclose the likelihood that even if the ice makers are used as an ordinary consumer would use them, they will freeze over and stop dispensing ice until they are defrosted or the ice is manually broken up and removed.

87. And, as to both Defects, Defendant also misrepresents the expected longevity of all of the Refrigerators at issue. A key factor that consumers consider in making purchasing decisions, particularly with respect to products like the Refrigerators that cost thousands of dollars, is how long they can be expected to last. Defendant falsely represents that purchasers of its Refrigerators didn’t have to “worry that it won’t last,” offering “peace of mind.”<sup>88</sup> Indeed, Defendant implies that its Refrigerators would last at least ten years by recognizing the importance that consumers would place on continued functionality:

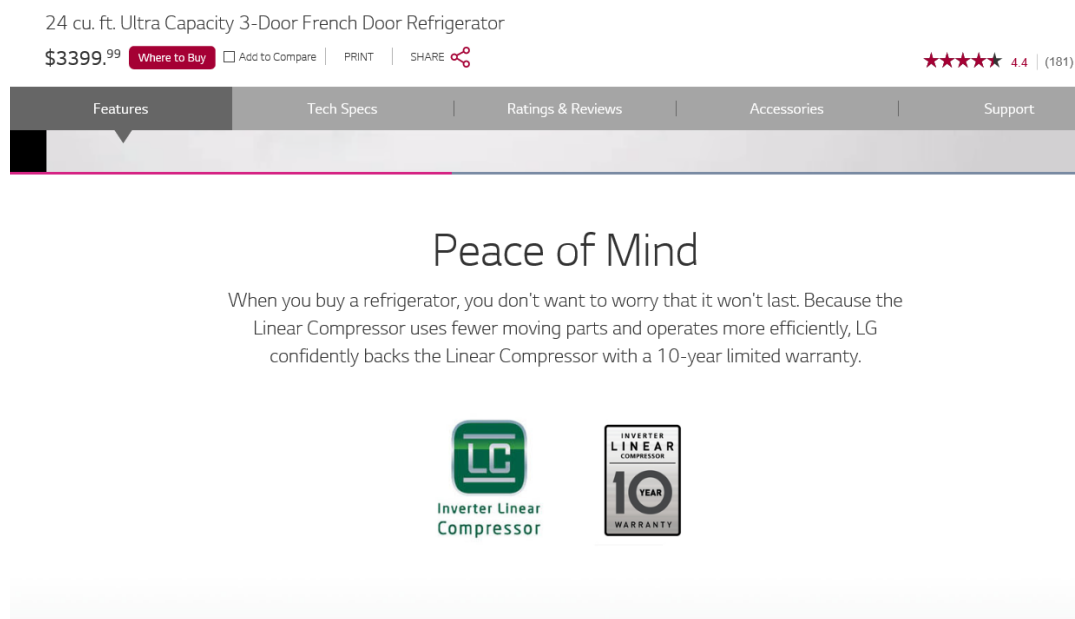
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<sup>88</sup> See, e.g., <http://www.lg.com/us/refrigerators/lg-LFXS30726S-french-3-door-refrigerator>.

***Peace of Mind. When you buy a refrigerator, you don't want to worry that it won't last.*** Because the Linear Compressor uses fewer moving parts and operates more efficiently, Defendant confidently backs the Linear Compressor with a 10-year limited warranty.

(emphasis supplied).

88. A screen shot of the message appears below:<sup>89</sup>



89. In contrast to Defendant's representation of "peace of mind," the Refrigerators routinely fail within just a few years of purchase due to one or both of the Defects.

### ***Defendant's Repair Warranties and Inapplicable Limitations Periods***

90. Defendant provides a one year warranty for parts and labor for the Refrigerators (other than the linear compressor), a seven year parts-only warranty for the "Sealed System" (which includes the condenser, dryer, connecting tube, refrigerant and the evaporator), and the

<sup>89</sup> To the extent any of Defendant's webpages for a particular model of Class Refrigerator do not contain the exact language quoted above, they nonetheless have this warranty.

10 year parts warranty for the linear compressor. These warranties are provided on Defendant's website, and are distributed with each and every refrigerator sold.

91. Defendant's warranties do not cover, at any time, "[s]ervice trips to deliver, pick up, install, or repair the product; instruct the customer on operation of the product; repair or replace fuses or correct wiring or plumbing, or correction of unauthorized repairs/installation," and, after the first year, it covers no labor at all.<sup>90</sup>

92. As detailed herein, there are numerous reports of Refrigerators failing shortly after the one-year warranty period. The frequency with which this occurs suggests knowledge and intent on the part of Defendant to limit the warranty period in a manner that is unfair to consumers due to the unequal balance of knowledge about the Defect.

93. Any efforts to limit the implied warranties in a manner that would exclude coverage of the Class Refrigerators is unconscionable, and any such effort to disclaim, or otherwise limit, liability for the Class Refrigerator is null and void.

94. Any limitations on the warranties are procedurally and substantively unconscionable. Defendant knew that the Class Refrigerators were defective and likely to fail shortly after the warranties purportedly expired. Defendant failed to disclose the Defects to Plaintiff and the other Class members. Moreover, Defendant was aware of, but did not disclose, the Defects would have a propensity to occur again after repair. There was unequal bargaining power between the Defendant, on the one hand, and Plaintiff and the other Class members, on the other. The process of the formation of the contract was thus unfair and the terms are excessively disproportionate. Defendant's enforcement of the durational limitations on those warranties would be harsh and unconscionable.

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<sup>90</sup> See, e.g., Owners' Manual for LFXS30726\* / LFXC24726\* at 55-56 (available at <http://www.lg.com/us/support-product/lg-LFXC24726S#manuals>).

95. For the same reason described in the preceding paragraph, to the extent there is any notice requirement imposed by law, notice is excused because Defendant has (and had) actual knowledge of the Defects in the Refrigerators that result in their failure to keep food at appropriate temperatures and their failure to make or maintain ice or dispense ice as Defendant warranted they would; therefore notice to Defendant has been, is and will be futile in that Defendant is unable to cure the Defects.

***Plaintiff's Experience is Consistent with that of the Class***

96. Plaintiff purchased his LG Refrigerator, Model LFXC24726, after reviewing the Refrigerator information on Defendant's website. Plaintiff reviewed and considered each of the product descriptions, videos concerning the Smart Cool System, the 10-year warranty for the Linear Compressor, and the description of the ice maker, described above. Plaintiff also read the product description on Costco's website, and the product specifications sheet at Best Buy, both of which include text substantively identical to relevant text on Defendant's website. He relied on this information in purchasing his Refrigerator.

97. Plaintiff purchased the Refrigerator for ordinary use in his family residence, and used it as intended. He reasonably expected his Refrigerator to last for at least several years.

98. Plaintiff paid \$2599.99 for his Refrigerator. He also paid \$174.99 for an extended warranty from an affiliate of Best Buy. Although he has been able to use this warranty to cover the repair of his Refrigerator Fan thus far (described below), it is common for the Fan Defect to occur again after a Refrigerator has been "repaired" (*see e.g., supra*, at ¶¶ 50(c), (d), (f), (g); 57(a), (b), (d); 59; 62(b)). Moreover, his problems with the Ice Maker Defect (described below, *see infra* ¶ 111) are ongoing, and it is common for this Defect to reoccur after repair. *See, e.g., supra*, at ¶¶ 64(a), (b), (f); 66(a), (d); 69(b); 72(b). Plaintiff thus continues to own a Refrigerator

with design and/or manufacturing Defects that make it likely to fail prematurely. He has received less than what he paid for and less than what he was led to believe he was purchasing.

99. In mid-January 2017, approximately one and a half years after purchase, the Refrigerator fan began to make a loud clicking sound. The noise continued for approximately three days, at which point the fan motor stopped running entirely, and stopped circulating cold air throughout the Refrigerator.

100. An error code on the Refrigerator's electronic display appeared indicating that there is a fan problem for which there is no troubleshooting remedy available. This problem occurred shortly after the end of the one year manufacturer's warranty period, although within the period of the extended warranty for which Plaintiff had paid extra.

101. Plaintiff subsequently contacted Defendant and Defendant confirmed a problem with the refrigerator fan. On Monday, January 17, 2017, an authorized LG service technician came to Plaintiff's house to look at the Refrigerator for the first of several visits. The service technician made no actual repairs during that visit, but merely ordered parts that were to arrive on January 18, 2017. Plaintiff's wife took a day off of work to facilitate the service repair call.

102. On January 18, 2017, the service technician was unable to complete the repair because only one of the two fans that were needed had arrived.

103. On January 20, 2017, the date by which the parts were supposed to arrive, Plaintiff's wife was required to take a second day off of work to wait for the delivery of the second fan, and again wait for a service technician.

104. The service technician began his work to repair Plaintiff's Refrigerator that day. First, the food had to be removed from the refrigerator portion of the model. Then the technician examined the back vents and walls of the Refrigerator and determined that both of the fans in



Plaintiff's Refrigerator were encrusted in ice. The service technician subsequently defrosted the area around the fans with a heat gun before he could remove the fans.

105. The repair technician observed that Plaintiff was fortunate that his refrigerator had worked as long as it had without repair.

106. The following image is a photo – taken by Plaintiff's wife – of the service technician using the heat gun to melt ice off of the fans:



107. The service technician subsequently removed large chunks of ice from the fans and deposited them in Plaintiff's kitchen sink, as illustrated in the picture below:





108. Plaintiff has lost approximately \$750 in spoiled food due to the Fan Defect. In addition, Plaintiff and his wife devoted approximately six days of lost work time waiting for a service technician to ultimately address and fix the Defect.

109. While the fan in Plaintiff's Refrigerator appears to have been at least temporarily repaired, given the number of individuals who have experienced a recurrence of the Defect, Plaintiff cannot rely on the fact that his Refrigerator will stop working again in the future due to the Fan Defect.

110. In addition, on numerous occasions since he purchased his Refrigerator, Plaintiff has experienced the Ice Maker Defect. His ice maker has frozen over, and he has had to remove the device and defrost it and/or break up blocks of ice and remove it manually. He has, on multiple occasions, experienced that his ice maker would not dispense ice until the above defrosting and/or manual ice removal procedure was conducted. He would not have purchased the Refrigerator or would not have paid as much for it as he did, if he knew that the ice maker would frequently freeze over and become unusable.

111. As described above, Plaintiff's experiences – from purchase, to experiences of the Defects, to struggles with customer service – have been identical to those reported by a multitude of consumers who purchased similar Refrigerators from Defendant, as reproduced *supra*.

### **CLASS DEFINITION AND ALLEGATIONS**

112. Plaintiff brings this action on behalf of himself and members of the following proposed classes (collectively, the "Class"):

- All persons in New Jersey who purchased one or more of Defendant's Fan Defect Class Refrigerators (Model Nos. LFXC24726S, LFXS30726S, LFX32945ST, LFXS32766S, LFXS30766S and LFX28968ST) during the Class Period (the "New Jersey Fan Defect Class").
- All persons in New Jersey who purchased one or more of Defendant's Ice Maker Defect Class Refrigerators (Model Nos. LFXC24726S, LFXS30726S, LFX32945ST, LFXS32766S, LFX28968ST, LFX21976ST, LFX25974ST, and LFXS30766S) during the Class Period (the "New Jersey Ice Maker Defect Class") (collectively, with the New Jersey Fan Defect Class, the "New Jersey Classes");
- All persons in the United States who purchased one or more of Defendant's Fan Defect Class Refrigerators (Model Nos. LFXC24726S, LFXS30726S, LFX32945ST, LFXS32766S, LFXS30766S and LFX28968ST) during the Class Period (the "U.S. Fan Defect Class");
- All persons in the United States who purchased one or more of Defendant's Ice Maker Defect Class Refrigerators during the Class Period (Model Nos. LFXC24726S, LFXS30726S, LFX32945ST, LFXS32766S, LFX28968ST, LFX21976ST, LFX25974ST, and LFXS30766S) (the "U.S. Ice Maker Defect Refrigerator Class") (collectively, with the U.S. Fan Defect Class, the "Nationwide Classes").<sup>91</sup>

113. The "Class Period" is May 22, 2011 through the date notice of class action is disseminated to the Class.<sup>92</sup>

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<sup>91</sup> Excluded from the Class are Defendant, its parent, subsidiaries, officers, directors, agents and employees.

<sup>92</sup> This Class Period start date, six years before the filing of this Complaint, has been selected because six years is the longest of the statutes of limitations for the claims herein that may be applied in the event that no tolling is granted.

114. Plaintiff reserves the right to modify or amend the definitions of the Class and Class Period during or after discovery or at any other time during litigation.

115. This action has been brought and may properly be maintained on behalf of the Class proposed above under Federal Rule of Civil Procedure 23 (“Rule 23”), insofar as the Class meets all the requirements of Rule 23:

a. ***Numerosity:*** The members of the Class are so numerous that their individual joinder is impracticable. Plaintiff is informed and believes that the proposed Class contains thousands of purchasers of the Refrigerators who have been damaged by Defendant’s conduct as alleged herein. The precise number of Class members is unknown to Plaintiff. The true number of Class members is known by Defendant, however, and thus potential Class members may be notified of the pendency of this action by first class mail, electronic mail, and/or published notice.

b. ***Existence and Predominance of Common Questions of Law and Fact:*** This action involves common questions of law and fact, which predominate over any questions affecting individual Class members. Common questions of law and fact include, but are not limited to, the following:

- i. Whether Defendant’s claims about the Refrigerators discussed above are true, or are reasonably likely to deceive with regards to the cooling capacity and expected useful life of the Refrigerators;
- ii. Whether Defendant’s omissions about the cooling capacity and expected useful life of the Fan Defect Refrigerators are likely to deceive reasonable consumers;
- iii. Whether Defendants’ omissions about the ice makers in the Ice Maker Defect Class Refrigerators are true or reasonably likely to deceive with regards to the functionality and expected longevity of the ice makers;
- iv. Whether Defendant knew of either Defect when it was making its misrepresentations and omissions;

- v. Whether the alleged conduct constitutes a violation of the New Jersey Consumer Fraud Act;
- vi. Whether the alleged conduct constitutes a breach of the express warranties which exist between Defendant and Plaintiff and other members of the Class;
- vii. Whether the alleged conduct constitutes a breach of the implied warranties which exist between Defendant and Plaintiff and other members of the Class;
- viii. Whether Plaintiff and Class members have sustained ascertainable loss and the proper measure of that loss;
- ix. Whether Plaintiff and Class members are entitled to equitable relief as a result of Defendant's conduct, and if so, the proper form of that relief; and
- x. Whether Plaintiff and Class members are entitled to injunctive relief.

c. **Typicality:** Plaintiff's claims are typical of the claims of the other members of the Class because, *inter alia*, all Class members were injured through the uniform misconduct described above, and all Class members were subject to Defendant's deceptive statements and omissions about the Refrigerators and the Defect. Plaintiff is advancing the same claims and legal theories on behalf of himself and all members of the Class.

d. **Adequacy of Representation:** Plaintiff will fairly and adequately protect the interests of the members of the Class. Plaintiff has retained counsel experienced in complex consumer class action litigation, and Plaintiff intends to prosecute this action vigorously. Plaintiff has no adverse or antagonistic interests to those of the Class.

e. **Superiority:** A class action is superior to all other available means for the fair and efficient adjudication of this controversy. The damages or other financial detriment suffered by individual Class members is relatively small compared to the burden and expense that individual litigation would entail. It would thus be virtually impossible for the Class, on an

individual basis, to obtain effective redress for the wrongs done to them by Defendant. Furthermore, individualized litigation would create the danger of inconsistent or contradictory judgments arising from the same set of facts. By contrast, the class action device provides the benefits of adjudication of these issues in a single proceeding and presents no unusual management difficulties under the circumstances here.

116. Unless a Class is certified, Defendant will retain monies received as a result of its conduct that were taken from Plaintiff and Class members. Unless a Class-wide injunction is issued, Defendant will continue to commit the violations alleged, and the members of the Class and the general public will continue to be deceived.

#### **NOTICE TO ATTORNEY GENERAL OF ACTION**

117. Pursuant to N.J. Stat. Ann. §56:8-20, a copy of this Complaint shall be mailed to the Attorney General of the State of New Jersey within ten days of the filing of the Complaint.

#### **COUNT I**

##### **Violation of New Jersey Consumer Fraud Act By Plaintiff, Individually and on Behalf of the New Jersey Classes**

118. Plaintiff repeats and realleges the allegations contained in all of the foregoing paragraphs, as if set forth fully herein.

119. The Consumer Fraud Act (“CFA”) was enacted and designed to protect consumers against unfair, deceptive and fraudulent business practices. N.J. Stat. Ann. § 56:8-1 *et seq.*

120. N.J. Stat. Ann. § 56:8-2 provides:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person

has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice...

121. Plaintiff, other members of the New Jersey Classes, and Defendant are “persons” within the meaning of the CFA.

122. The Refrigerators manufactured and sold by Defendant are “merchandise” within the meaning of the CFA, and Plaintiff and other members of the New Jersey Classes are “consumers” within the meaning of the CFA and thus entitled to the statutory remedies made available in the CFA.

123. Defendant, through its marketing and sale of the Class Refrigerators, used unconscionable commercial practices, deception, fraud, false pretense, false promise, misrepresentation and willful omission in violation of the CFA in connection with the marketing and sale of the Refrigerators, as alleged above.

124. Defendant also knowingly concealed, suppressed and consciously omitted material facts to Plaintiff and other members of the New Jersey Classes knowing that consumers would rely on the limited information available which excluded information about the Defects, to make decisions as to the purchase of the Class Refrigerators.

125. The misrepresentations and omissions were material and were intended to, and likely to, deceive a reasonable consumer.

126. The foregoing acts, misrepresentations, omissions and practices directly, foreseeably and proximately caused Plaintiff and other members of the New Jersey Classes to suffer ascertainable losses in the form of, *inter alia*, monies spent to purchase the Refrigerators, and they are entitled to recover such damages, together with appropriate penalties, including treble damages, any other statutory damages, attorneys’ fees and costs of suit.

127. The CFA is, by its terms, a cumulative remedy, such that remedies under its provisions can be awarded in addition to those provided under separate statutory schemes.

128. Plaintiff also seeks a permanent injunction prohibiting Defendant from continuing to engage in the deceptive acts set forth above.

## **COUNT II**

### **Breach of Implied Warranty of Merchantability and Fitness for a Particular Purpose**

**N.J. Stat. Ann. § 12a:2-314, 12a:2-315**

#### **By Plaintiff, Individually and on behalf of the New Jersey Classes**

129. Plaintiff realleges and incorporates by reference all of the preceding paragraphs as though fully set forth herein.

130. When Plaintiff and the New Jersey Class members purchased their Refrigerators, the transactions contained an implied warranty that they were in merchantable condition and fit for their known purpose. This is because Defendant is and at all relevant times was a merchant with respect to the Refrigerators. This duty was breached because the Refrigerators: would not pass without objection in the trade under the contract description; are not of fair average quality within the description; and are not fit for the ordinary purpose for which such goods are used.

131. Specifically, as relevant to the New Jersey Fan Defect Class Refrigerators, they are not merchantable for their ordinary purpose because they have fans that are likely to cease working prematurely, becoming packed in ice, and resulting in a lack of cool air circulating around the Refrigerator which causes the Refrigerators to fail in their essential purpose. And, as relevant to the New Jersey Ice Maker Defect Class Refrigerators, they are inherently defective in that in conditions of ordinary use, their ice makers are likely to freeze over, become blocked by ice, and become unable to dispense ice.

132. At the time of New Jersey Class members' purchases of the Refrigerators, there was also an implied warranty of fitness for a particular purpose. Defendant had reason to know

that consumers would be using their Refrigerators to cool food, and their ice dispensers to dispense ice, and that consumers were relying on Defendant's skill to furnish goods suitable for that purpose. Defendant breached this duty because the goods were not suitable for the purposes for which Defendant knew consumers intended to use them.

133. Plaintiff and the members of the New Jersey Classes, at all relevant times, were intended third-party beneficiaries of Defendant's sale of its Refrigerators through its retailers.

134. There is privity between Defendant, Plaintiff and the members of the New Jersey Classes by Defendant's direct warranties and/or because Plaintiff and the New Jersey Classes were intended third-party beneficiaries of the implied warranty made by Defendant.

135. Any efforts to limit the implied warranties in a manner that would exclude coverage of the Class Refrigerators is unconscionable, and any such effort to disclaim, or otherwise limit, liability for the Class Refrigerators is null and void.

136. Any limitations on the warranties are procedurally unconscionable. There was unequal bargaining power between the Defendant, on the one hand, and Plaintiff and the other Class members, on the other.

137. Any limitations on the warranties are substantively unconscionable. Defendant knew that the Class Refrigerators were defective and likely to fail shortly after the warranties purportedly expired. Defendant failed to disclose the Defects to Plaintiff and the other Class members. Thus, Defendant's enforcement of the durational limitations on those warranties is harsh, unconscionable and shocks the conscience.

138. Defendant was provided notice of the Defects through customer complaints, including complaints made by Plaintiff, reports by repair technicians and/or others, and internal



investigations that must have occurred to allow Defendant to address problems brought to them by customers.

139. As a direct and proximate result of Defendant's breach of the warranties of merchantability and fitness for a particular purpose, Plaintiff and the New Jersey Classes have been damaged in an amount to be proven at trial.

**COUNT III**  
**Breach of Express Warranty under New Jersey Common Law**  
**By Plaintiff, Individually and on behalf of the New Jersey Classes**

140. Plaintiff repeats and realleges the allegations contained in all preceding paragraphs, as if set forth fully herein.

141. Plaintiff brings this claim individually and on behalf of each member of the New Jersey Classes.

142. Plaintiff and each member of the New Jersey Classes formed contracts with Defendant at the time they purchased their Class Refrigerators. The terms of that contract include the Defendant's claims regarding the Refrigerators' quality, including the Defective components, as set forth above. That contract included Defendant's representations that the Refrigerators were especially competent at circulating air and making adjustments to keep food at appropriate temperatures and/or that they came with ice makers that would dispense ice and produce and store a certain amount of ice per day. This product advertising constitutes express warranties, became part of the basis of the bargain, and is part of a standardized contract between Plaintiff and the members of the Class on the one hand, and Defendant on the other.

143. All conditions precedent to Defendant's liability under the contracts have been performed by Plaintiff and the Class members.

144. Any limitations on Defendant's warranties are procedurally unconscionable. There was unequal bargaining power between the Defendant, on the one hand, and Plaintiff and the other Class members, on the other.

145. Any limitations on Defendant's warranties are substantively unconscionable. Defendant knew that the Class Refrigerators were defective and likely to fail shortly after the warranties purportedly expired. Defendant failed to disclose the Defects to Plaintiff and the other Class members. Thus, Defendant's enforcement of the durational limitations on those warranties is harsh, unconscionable and shocks the conscience.

146. Defendant breached the terms of these contracts, including the express warranties, by failing to provide Refrigerators which provided the benefits advertised by Defendant – namely, Refrigerators that would keep food at appropriate temperatures and ice makers that could be expected to dispense ice rather than jamming, requiring defrosting, manual removal of ice and repeated repair.

147. As a result of Defendant's breach of its express warranties, Plaintiff and the New Jersey Classes have been damaged have been damaged in an amount to be proven at trial.

**COUNT IV**  
**Magnuson-Moss Warranty Act – Claim for Breach of Express and Implied Warranty**  
**(15 U.S.C. §§ 2301, *et seq.*)**  
**By Plaintiff, Individually and on Behalf of the Nationwide Classes**

148. Plaintiff realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

149. Plaintiff brings this claim on behalf of the Nationwide Classes.

150. This Court has jurisdiction to decide claims brought under 15 U.S.C. § 2301 by virtue of 28 U.S.C. § 2301(3).

151. Defendant's affected Refrigerators are a "consumer product," as that term is defined in 15 U.S.C. § 2301(1).

152. Plaintiff and the other members of the Classes are "consumers," as that term is defined in 15 U.S.C. § 2301(3).

153. Defendant is a "warrantor" and a "supplier," as those terms are defined in 15 U.S.C. §§ 2301(4) and (5), respectively.

154. Defendant provided Plaintiff and Class members with "express warranties" as that term is defined by 15 U.S.C. § 2301(6).

155. Plaintiff, and each member of the Classes, formed a contract with Defendant at the time Plaintiff and the other members of the Classes purchased their Refrigerators. The terms of that contract include the claims and omissions regarding the Defective components, as set forth above. This product advertising constitutes express warranties, became part of the basis of the bargain, and is part of a standardized contract between Plaintiff and the members of the Classes on the one hand, and Defendant on the other.

156. Plaintiff and the Class members relied on these express warranties in Defendant's advertising and warranties as being a part of the bargain between the parties.

157. Defendant provided Plaintiff and Class members with "implied warranties" as that term is defined by 15 U.S.C. § 2301(7).

158. All conditions precedent to Defendant's liability under the contract have been performed by Plaintiff and the Class members.

159. Defendant breached the terms of this contract, including the express and implied warranties with Plaintiff and the Nationwide Fan Defect Class members, by failing to provide Refrigerators which provided the benefits advertised by Defendant – namely, by failing to

provide Refrigerators that would keep food at appropriate temperatures and have a reasonable product life, and further, including the Express Warranties between Plaintiff and the Nationwide Ice Maker Defect Fan, by failing to provide icemakers that would reliably dispense ice. Defendant breached its implied warranties with the members of each of these classes by failing to provide Refrigerators that were fit for their ordinary purposes and the purposes for which Defendant knew that Class members intended to use them, including ice making and ice dispensing, and by failing to provide refrigerators that would pass without objection the trade under their description.

160. There is privity between Defendant, Plaintiff and the members of the Nationwide Classes by Defendant's direct warranties and/or because Plaintiff and the Nationwide Classes were intended third-party beneficiaries of the implied warranty made by Defendant.

161. Any efforts to limit the implied warranties in a manner that would exclude coverage of the Class Refrigerators is unconscionable, and any such effort to disclaim, or otherwise limit, liability for the Class Refrigerators is null and void.

162. Any limitations on the warranties are procedurally unconscionable. There was unequal bargaining power between the Defendant, on the one hand, and Plaintiff and the other Class members, on the other.

163. Any limitations on the warranties are substantively unconscionable. Defendant knew that the Class Refrigerators were defective and likely to fail shortly after the warranties purportedly expired. Defendant failed to disclose the Defects to Plaintiff and the other Class members. Thus, Defendant's enforcement of the durational limitations on those warranties is harsh, unconscionable and shocks the conscience.

164. As a result of its breaches of express and implied warranties, Plaintiff and the members of the Nationwide Class have been damaged in an amount to be proven at trial.

**COUNT V**  
**Negligent Misrepresentation**  
**By Plaintiff, Individually and on Behalf of the Nationwide Classes**

165. Plaintiff repeats the allegations contained in the foregoing paragraphs as if fully set forth herein.

166. Plaintiff brings this claim individually and on behalf of the members of the Nationwide Classes.

167. Defendant represented that the Refrigerators were among the most effective available refrigerators at maintaining food at appropriate temperatures and keeping it fresh with constantly circulating air. They also represent the Refrigerators as having ice makers that can be relied on to distribute ice. To communicate this representation and to convince Plaintiff and members of the Classes, Defendant supplied information, including through its website, the website of its authorized retailers, its printed materials, its repair warranties, and its point of sale documentation. Defendant knew, or should have known, that this information was false and/or misleading and fraught with material omissions.

168. The misrepresentations concerned material facts that influenced Plaintiff's and members of the Classes' decisions to purchase the Refrigerators.

169. Defendant negligently made the misrepresentations and omissions with the understanding the Plaintiff and Class members would rely on them.

170. Plaintiff and members of the Classes reasonably, justifiably, and detrimentally relied on the misrepresentations and omissions, and, as a direct and proximate result thereof, have and will continue to suffer damages in an amount to be determined at trial.

**COUNT VI**  
**Common Law Fraud**  
**By Plaintiff, Individually and on Behalf of the Nationwide Classes**

171. Plaintiff repeats the allegations contained in the foregoing paragraphs as if fully set forth herein.

172. Plaintiff brings this claim individually and on behalf of the members of the Nationwide Classes.

173. Defendant made material misrepresentations of facts and/or fraudulently concealed from and/or intentionally failed to disclose the Defects to Plaintiff and members of the Nationwide Classes.

174. Defendant had exclusive knowledge of the truth at the time of sale. The misstatements and omissions were made with knowledge of their falsity and with the intent that Plaintiff and members of the Class would rely on the facts as represented.

175. Defendant charged a premium for the falsely represented features in the Refrigerators.

176. The Defects are latent and not something that Plaintiff or members of the Classes, in the exercise of reasonable diligence, could have discovered independently prior to purchase, because it is not feasible for individual consumers to conduct their own extensive review of all similar products manufactured by a manufacturer prior to purchase. The Defects would not be disclosed by careful, reasonable inspection by the purchasers.

177. Defendant had the capacity to, and did, deceive Plaintiff and members of the Classes into believing that Refrigerators they were purchasing were among the most effective at keeping food at appropriate temperatures, that they had functionally designed ice makers and that they could have “Peace of Mind” with respect to the longevity of the product.

178. Defendant undertook active and ongoing steps to conceal the Defects. Plaintiff is aware of nothing in Defendant's advertising, publicity, or marketing materials that discloses the truth about the Defects, despite Defendant's awareness of the problem. Defendant had a duty to disclose accurate information about the Defects at the time of sale.

179. The facts misrepresented and/or concealed and/or not disclosed by Defendant to Plaintiff and members of the Classes are material facts in that a reasonable person would have considered them important in deciding whether to purchase (or to pay the same price for) a refrigerator.

180. Plaintiff and the Classes justifiably acted or relied upon the misrepresented or omitted facts to their detriment, as evidenced by their purchase of the Refrigerators.

181. Plaintiff and members of the Classes reasonably, justifiably, and detrimentally relied on the misrepresentations and omissions, and, as a direct and proximate result of Defendants' deceptive, fraudulent and unfair practices, have and will continue to suffer damages in an amount to be determined at trial.

**COUNT VII**  
**Unjust Enrichment**  
**By Plaintiff Individually and on Behalf of the Nationwide Classes**

182. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs, as if set forth fully herein.

183. Plaintiff brings this claim individually and on behalf of the Nationwide Classes.

184. Plaintiff makes this claim in the alternative to the warranty claims set forth above.

185. As a result of Defendant's material deceptive advertising, marketing and/or sale of its Refrigerators, Defendant was enriched at the expense of Plaintiff and all other Nationwide

Class members through their purchase of the Refrigerators, because the Refrigerators did not provide the benefits as represented.

186. There is privity between Defendant, Plaintiff and the members of the Nationwide Classes by because Defendant intended to sell the Class Refrigerators to Class Members, not to its retailers.

187. Under the circumstances, it would be against equity and good conscience to permit Defendant to retain the ill-gotten benefits it received from Plaintiff and the Class as the result of its deceptive marketing and advertising practices. Thus, it would be unjust or inequitable for Defendant to retain the benefit without restitution to Plaintiff and the Nationwide Classes.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment:

- A. Certifying the Classes as requested herein;
- B. Appointing Plaintiff as Class representative for each Class and his undersigned counsel as Class counsel;
- C. Awarding Plaintiff and the proposed Class members damages;
- D. Awarding statutory damages, including treble damages, to the extent available;
- E. Awarding restitution and disgorgement of Defendant's revenues to Plaintiff and the proposed Class members;
- F. Awarding injunctive relief as permitted by equity, including: enjoining Defendant from continuing the unlawful practices as set forth herein, and directing Defendant to identify, with Court supervision, victims of its conduct and pay them restitution and disgorgement of all



monies acquired by Defendant by means of any act or practice declared by this Court to be wrongful;

- G. Ordering Defendant to engage in a corrective advertising campaign;
- H. Awarding attorneys' fees and costs; and
- I. Providing such further relief as may be just and proper.

**DEMAND FOR JURY TRIAL**

188. Plaintiff hereby demands a trial of his claims by jury to the extent authorized by law.

Dated: May 22, 2017

**WOLF HALDENSTEIN ADLER  
FREEMAN & HERZ LLP**

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/s/ Janine L. Pollack  
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